

# PROFESSIONAL EDUCATION:

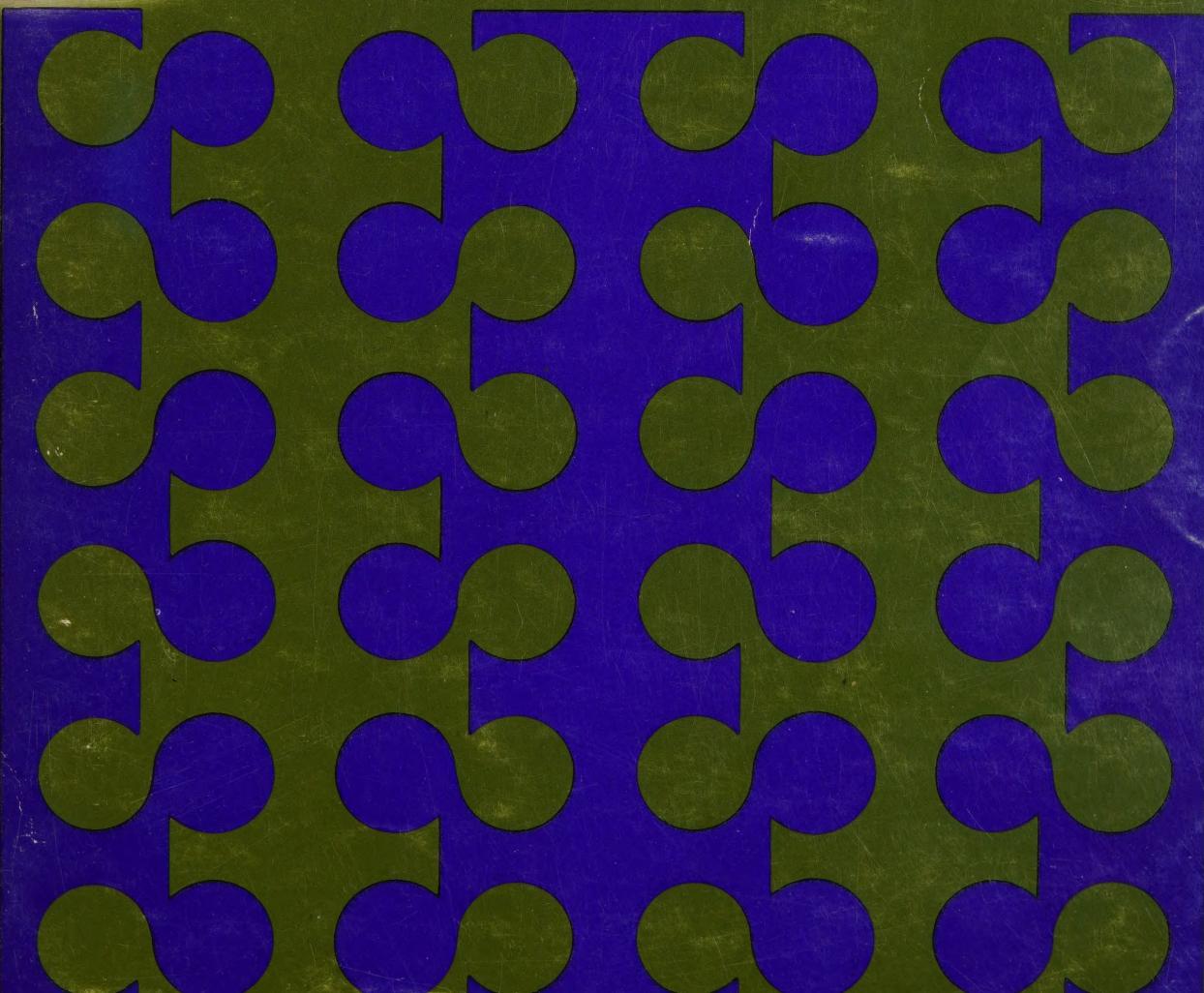
## A Policy Option

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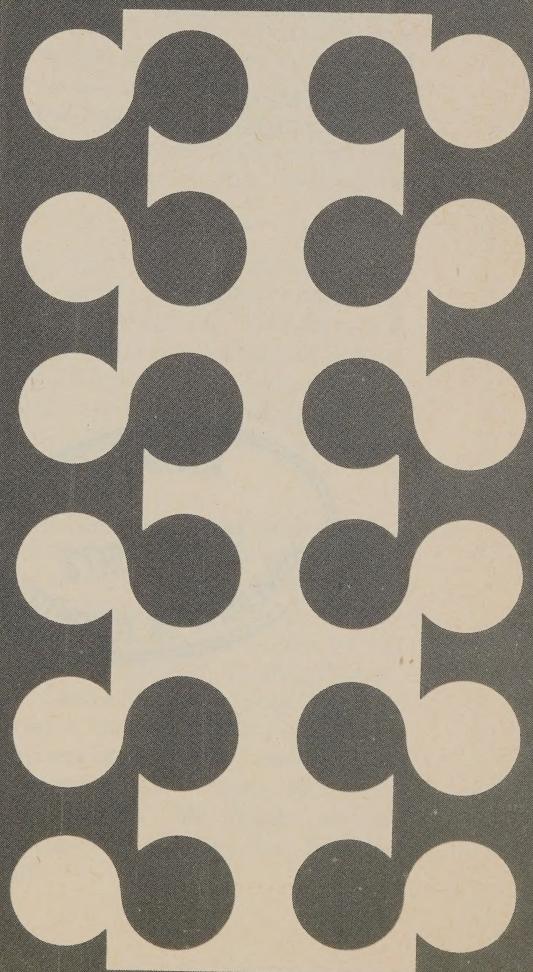
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# PROFESSIONAL EDUCATION: A Policy Option

A Study Prepared for the Commission  
on Post-Secondary Education in Ontario



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## Professional Education: A Policy Option

### Editorial Foreword

The Commission on Post-Secondary Education in Ontario was required by its broad terms of reference to consider the "general pattern necessary to ensure the further effective development of post-secondary education in the province...." It is obvious that the training of professional personnel is an important part of any modern system of higher education, and that the professions are increasingly recognized as powerful as well as necessary groups in contemporary society.

In recent years it has become fashionable to speak of the "post-industrial" economy, the role of "technocrats", and the problems of the "technological society". As writers such as Jacques Ellul, J. K. Galbraith, and Daniel Bell have popularized these terms, more and more interest has been focussed on the professions and professional schools as repositories and creators of technological skills and innovation. A recent report prepared for the Committee of Presidents of Universities of Ontario and presented as a brief to this Commission, *Towards Two Thousand: Post-Secondary Education for Post-Industrial Ontario* (Toronto, McClelland and Stewart, 1971), asserts that "the post-industrial society is organized around knowledge", and devotes considerable attention to the "professional ladder".

Clearly, professional education is one of the most costly aspects of post-secondary institutions. It is equally apparent that higher education confers upon professional graduates both high incomes and high status in the community. Therefore, it is scarcely surprising that the public takes a growing interest in the admissions policies of professional schools, the apparent trend toward lengthening curricula, the range and quality of skills produced, and the increasingly complex relationships between the professions and society. These are questions which are considered within the framework of the present study.

Prior to the initiation of this study, the Commission devoted some time to a review of problems relating to specific professions. The Commission benefitted from Professor P. A. Lapp's work on engineering, *Ring of Iron* (a report prepared for the Committee of Presidents of Universities of Ontario, 1970), and from the work of Mr. A. Roman, *Legal Education in Ontario* (this series, Background Studies for the Commission on Post-Secondary Education in Ontario, Toronto, Queen's Printer, 1972). Additional insights were gained from Mr. Justice McRuer's Royal Commission Report, *Inquiry into Civil Liberties* (Toronto, Queen's Printer, 1968), and useful material relating to the healing professions was obtained from the *Report of the Ontario Committee on the Healing Arts* (Toronto, Queen's Printer, 1970) and from the Castonguay-Nepveu Commission in Quebec, *The Report of the Commission of Inquiry on Health and Social Services* (Vol. VII, Part Five, Tome II, "The Professions", Government of Quebec, 1970).



PROFESSIONAL EDUCATION: A POLICY OPTION

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PROFESSIONAL EDUCATION: A POLICY OPTIONINTRODUCTION

This study attempts, within the framework laid down by the Commission on Post-Secondary Education in Ontario in its "Specifications for Research Study No. 14," to examine the key issues in contemporary Ontario professional education. On the basis of that examination, a policy option will be outlined in the form of a number of "propositions."

It should be emphasized that this study is an issue-and policy-oriented study, with stimulation of discussion and awareness as its prime purpose. No significant attempt has been made to gather new statistical data or other quantitative information. No extensive analysis has been undertaken of prior studies in related fields. (The study team has noted how many reports rely for their substance on analysis or even synthesis of other reports.) Rather, this study tries to use other studies and already assembled data as a solid foundation for concentrated attention on policy issues. Such issues cannot be decided or even defined by reference to empirical data. That data may suggest issues or the parameters of a particular issue, but that is all it can do. Decisions as to what are substantive policy issues, and ideas as to how they may be approached and resolved, must in the last resort have as their foundation

an attitude towards a whole spectrum of central questions concerning the nature and quality of civilized life. Attitudes towards these questions legitimately differ; as a consequence, identification of policy issues and methods of resolution of these issues will also legitimately differ. But this unavoidable difficulty should not be used as an excuse for retreat into simple assemblage of data. Rather, that opinions differ should be accepted, and well-informed opinion should be proffered on the grounds that if it leads to heat, perhaps from the heat, light will emerge.

This study has as its raw material much written material on professional education, a number of interviews with appropriate individuals, and replies to a series of letters soliciting views sent to a wide range of persons. For a bibliography, and a list of those interviewed and those replying to our letter, see Appendix "A."

Within the study there is a significant emphasis upon the professions of law and medicine. The authors do not feel that this emphasis invalidates the general conclusions which have been drawn and the propositions which have been enunciated. Law and medicine have almost entirely been used by way of example, rather than to make a specific substantive point. In any event, these two professions are probably the pre-eminent professions, and they are certainly those professions which occupy a central place in the general literature concerning the professions.

PART I: THE GUIDING PRINCIPLESINTRODUCTION

We have retained the theoretical framework suggested in our original letter of proposal to the Commission.<sup>1</sup> That framework attempts to relate the following three basic spheres of interest: (a) the individual, approached through the rights and duties he is generally considered to possess; (b) the professional associations and professional segments of the academic community; and (c) the larger community (i.e. the people of the Province of Ontario, and their institutions, customs, traditions, etc.) to which the individual and the professional community belong. The framework attempts to relate these spheres of interest by posing, explicitly or implicitly, questions such as the following: (a) what is the role and responsibility of the individual as a member of his professional association, and as a member of his community? Do these functions blend harmoniously, or are there frustrating and destructive tensions? (b) what is the function of the professional association in relation to the individual and the larger society? Throughout, we will be trying to develop an understanding of the relationship between the individual, professions, and

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1. Letter of June 14, 1971, from Applied Research Associates to Dr. K. J. Rea, Chief Research Consultant of the Commission on Post-Secondary Education in Ontario, p. 3.

*the general community in Ontario with a view to detecting disharmonies which may be alleviated by new professional education policies. It should be remembered that detection of disharmonies must be subjective to some extent.*

*There are two chains of relationship which we will be postulating and analyzing: the relationship of the professional to non-professional individuals (clients or subjects) and the relationship of the professional to his professional association. The professional relates to society at large through both these chains. Although we believe that the former chain is almost by its very nature functional, we also believe that the latter exhibits serious dysfunctional tendencies. The most serious of those dysfunctional tendencies is inadequate concern for and relationship to the individual.*

*The role of professional associations in the community has lately been the subject of considerable comment, much of which has been critical of the manner in which the associations presently function. Quite apart from what can be found in the scholarly literature, far-ranging criticisms of the organization and functioning of the professions have been made by the Economic Council of Canada,<sup>2</sup> the Task Force on Labour Relations<sup>3</sup> (established*

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2. Economic Council of Canada, Interim Report on Competition Policy (1969), 148-153.

3. Government of Canada, Task Force on Labour Relations, Canadian Industrial Relations (1969), 139-140.

by the Government of Canada), the Committee on the Healing Arts (of the Government of Ontario),<sup>4</sup> the Royal Commission Inquiry into Civil Rights (Ontario),<sup>5</sup> and the Commission of Inquiry on Health and Social Welfare (established by the Government of Quebec).<sup>6</sup> Quite clearly, the professions are a subject of increasing concern to those engaged in attempts to make our society more rational and equitable.

The increasingly widespread investigation of the state of the professions can be viewed within the context of the new consumer movement. The last decade has seen realization of the fact that it is not in the necessary nature of things that the individual consumer of goods and services must unquestioningly accept what he is given and the way he is given it. A measure of exploitation of consumers by producers has been identified, and those exploited have learnt that in numbers and organization there lies economic and political power. This new-found power was initially directed against producers of consumer durables, particularly the automobile manufacturers, but lately hitherto sacrosanct suppliers of high-level services have come under attack.

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4. Government of Ontario, Committee on the Healing Arts, Recommendations. For example, Recommendation No. 5 at 15 and Recommendation No. 317 at 51.
  5. Government of Ontario Royal Commission Inquiry into Civil Rights, Reports (1968). For example, 1172.
  6. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome I (1970).

*Criticism of the professions, although clearly to some extent a response to particular inadequacies in the existing structure, should be viewed also as part of a general movement to establish an equitable balance between producers and consumers and to secure economic justice for the individual.*

#### THE QUESTION OF FURTHER STUDY

Many of the "propositions" (statements summarizing the main lines of argument) in this study suggest that further study of some kind be undertaken. These suggestions are inevitable, given the limited scope of this study and the complex and profound problems presented by professional education. The question becomes, who should undertake such study? Clearly only government has the resources and motivation, but we need to determine what level of government and what agencies of the preferred level are best suited to the task. For constitutional reasons, it is a job which obviously falls to the provincial rather than the federal government. Within the provincial government, we feel that, ideally, the Department for the Professions suggested in Proposition X should be in charge of further research and study, but we recognize not only a certain lack of immediate practicality in this suggestion, but also the fact that it does not make allowance for a study of the desirability of establishing such a Department in the first place. Accordingly, we suggest that the Government of Ontario Department of

Colleges and Universities or the Department of Education in the first instance undertake the study required.

As an alternative to such study being undertaken by either of these departments, a number of studies could be parcelled out among several departments. For example, the Minister of Health might deal with medical education, while the Attorney-General would consider the problems of legal education. We reject this alternative on the grounds that such an approach would deprive the suggested study of the global perspective and coherence vital to its success.

We are not prepared to reject out of hand, and simply for constitutional reasons, the possibility of the federal government undertaking, with the co-operation of the provinces, a national study of the professions and professional education. A centralized federal study would be efficient, since the main problems of the professions are not local to a province, but are national and international in nature. Federal resources and comparative study would increase the chances of meeting these problems rationally. Furthermore, a uniform approach in Canada to the problems posed by the professions would likely encourage portability of professional qualifications, an end that all agree to be sound. Portability would increase competition, with resultant increases in quality and decrease in cost, other ends that all recognize as desirable.

Accordingly, we submit the following propositions relating to the further study of the professions and professional

education:

- I. FURTHER STUDY OF THE PROFESSIONS AND PROFESSIONAL EDUCATION SHOULD IDEALLY BE UNDERTAKEN BY THE PROVINCIAL DEPARTMENT FOR THE PROFESSIONS SUGGESTED IN PROPOSITION X OF THIS STUDY.
- II. IN THE INTERIM, OR FAILING CREATION OF A DEPARTMENT FOR THE PROFESSIONS, SUCH FURTHER STUDY SHOULD BE UNDERTAKEN BY THE ONTARIO DEPARTMENT OF EDUCATION, OR THE DEPARTMENT OF COLLEGES AND UNIVERSITIES, OR BOTH.
- III. CONSIDERATION SHOULD BE GIVEN TO ASKING THE FEDERAL GOVERNMENT TO UNDERTAKE, JOINTLY WITH THE PROVINCES, A NATIONAL STUDY OF THE PROFESSIONS AND PROFESSIONAL EDUCATION.

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CHAPTER I: THE PROFESSIONAL, THE INDIVIDUAL AND THE COMMUNITY

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There is general agreement among those who have considered the professions that one of the primary characteristics of any profession is its service orientation. In 1914, the American jurist Mr. Justice Brandeis, in listing the characteristics of a profession, made his touchstone the acceptance by the professional of the proposition that his primary duty is to his subjects' best interests.<sup>7</sup> Brandeis identified two aspects of the professional's situation which made the subject particularly vulnerable: (a) possession of a highly complex body of knowledge incomprehensible and untestable to the layman, and (b) use of that knowledge to make a living, i.e. by the professional to his own advantage. In Brandeis' view, the service duty of the professional had to be stressed as a countervailing power to subject vulnerability. Stressing this duty generally took the form of a self-generating and self-enforcing code of ethics. Paul Donham, for example, has stated categorically that "business is not a profession," advancing as his primary reason for this assertion that "there are no standards of conduct, in any way generally agreed upon or accepted, to which executives are expected to adhere. In business the

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7. L. Brandeis, Business--A Profession (Boston, Hale, Cushman and Flint, 1914).

legal minimums are the ethical minimums."<sup>8</sup> Donham recognizes that many business executives have high ethics, but claims that these are personal standards--"in no sense can they be considered group standards shared by executives as such."<sup>9</sup> The result is, in Donham's view, that management is not a profession.<sup>10</sup>

The Brandeis approach has been particularly influential. The recent report of the Committee on Legal Education (Ormrod Committee) to the Lord High Chancellor of Great Britain stated, explicitly referring to Brandeis' Business--A Profession, that all professions have the following characteristics:

- (1) a highly complex body of knowledge combined with the ability to use intellectual processes which are, at least to some extent, peculiar to the profession;
- (2) certain practical skills and professional techniques without which this knowledge cannot be applied in the

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8. Paul Donham, "Is Management a Profession?" Harvard Business Review, 40, No. 5 (September - October 1962), 60.
  9. Ibid., 60.
  10. Wilbert E. Moore appears to consider business administration a profession, although he notes that until abstract analytical tools and theoretical principles were introduced, training in business administration merely substituted vicarious experience for real experience, and could not successfully distinguish the professional and the layman. Wilbert E. Moore, The Professions: Role and Rules (New York, Russell Sage, 1970), Chapter 1.

practice of this profession;

(3) the capacity to use such knowledge, from day to day, in the service of other people's interests and to solve, or help them to solve, practical problems arising within the sphere of the profession;

(4) a particular kind of relationship with clients or patients, arising from the complexity of the subject matter which deprives the client or patient of the ability to make informed judgements for himself and so renders him, to a large extent, dependent upon the professional man; and

(5) a self-imposed code of professional ethics intended to correct the imbalance inherent in this relationship and to resolve inevitable conflicts between the interests of the client or patient and the interests of the professional man himself or of the community at large.<sup>11</sup>

Bernard Barber, chairman of the Department of Sociology at Barnard College, Columbia University, has identified as a further characteristic of professional behaviour "a system of rewards (monetary and honorary) that is primarily a set of symbols of work achievement and thus ends in themselves, not means to some end of individual self-interest."<sup>12</sup>

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11. Government of the United Kingdom, Committee on Legal Education, Report (London, Her Majesty's Stationery Office, 1971), 31.

12. Bernard Barber, "Some Problems in the Sociology of the Professions," Daedalus, Proceedings of the American Academy of Arts and Sciences, 92 (1963), 672.

Professor Barber is in agreement that an essential attribute of professional behaviour is a "primary orientation to the community interest rather than to the individual self-interest." William J. Goode has identified as one of two core characteristics of professions a "service orientation"<sup>14</sup> and this same phrase has been emphasized by Wilbert E. Moore.<sup>15</sup>

There is, then, general agreement that "service orientation" is a primary or core characteristic of professional activity. The duty of the professional is to the community and this duty finds expression in commitment to the subject or client. Notice that discussion of service orientation takes place within the framework of "definition" or "identification of core characteristics." In the view of the authors of this study, however, to place this discussion in that framework is misleading. The commentators we have discussed are not, when stressing service orientation, engaging in a genuine exercise in definition. Rather, they are urging adoption

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13. Ibid., 672.

14. William J. Goode, "Encroachment, Charlatanism, and the Emerging Profession: Psychology, Medicine and Sociology," American Sociological Review, 25 (1960), 903, cited by Eliot Friedson, Profession of Medicine (Dodd Mead, 1970), 77.

15. Wilbert E. Moore, The Professions: Roles and Rules (New York, Russell Sage, 1970), Chapter 1.

by professionals of a particular orientation to offset the power which their true characteristics, e.g. mastery of a body of complex knowledge, give them. When we talk of service orientation, we are not talking about what activities are professional activities, but rather we are exhorting professionals to act in a certain way. Friedson has stated that "there appears to be no reliable information which actually demonstrates that a service orientation is in fact strong and widespread among professionals... discussions of professions assume or assert by definition and without supporting empirical evidence that 'service orientation' is especially common among professionals."<sup>16</sup>

What we are really talking about can be expressed quite simply. It is a basic tenet of our society that, as the individual has certain rights, so he has certain duties.<sup>17</sup> As rights increase, so do duties, and since the professional is given the supreme right to exercise power through knowledge (in the case of the physician, this may even be the right to decide who lives and who dies), his duties towards the community are correspondingly great. The community has the absolute right to demand that these duties be fulfilled.

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16. Friedson, Profession of Medicine (New York, Dodd Mead, 1970), 81.

17. W. N. Hohfeld, Fundamental Legal Conceptions (New Haven Yale University Press, 1919).

"Service orientation," then, is not an element in the definition of a profession, but a duty of professionals which the community can and must exact. Believing in beginning at the beginning, we therefore state as one of our first propositions to underlie all further propositions the following:

IV. THE BASIC PREMISE OF ALL PROFESSIONAL EDUCATION  
SHOULD BE EXPLICITLY RECOGNIZED AS BEING THAT THE  
FIRST DUTY OF EVERY PROFESSIONAL IS TO ACT AT ALL  
TIMES IN THE BEST INTERESTS OF THE COMMUNITY.

How is the professional to recognize the best interests of his community? We will treat this matter in some detail when we come to discuss curricula, but some preliminary remarks are appropriate here. There is increasing recognition in society of the complex way in which almost all problems are interrelated. True understanding of any one problem area requires at least some understanding of many other problem areas. One of the most powerful expressions of this new recognition is the present dominant ecological concern. The need for a wide perspective in order correctly to identify the best interests of the community has been realized, for example, in a recent report on engineering education in Ontario;<sup>18</sup> that report stated that "many engineers will have to learn to function as members of

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18. Committee of Presidents of Universities of Ontario,  
Ring of Iron: A Study of Engineering Education in  
Ontario (1970).

interdisciplinary teams, and will require a broader education in the life sciences and the social sciences in order that their technological decisions will have the desired social impact."<sup>19</sup> The report went so far as to claim that the basic function of an engineer requires interdisciplinary knowledge:

In engineering education, there is a traditional idea that engineers are "problem-solvers." For industry it would be more correct to say that engineers "face situations." The role of an engineer requires him to face situations in which he takes account of psychological, sociological, aesthetic and political factors as well as scientific and technological matters. Today it is the computer and supporting staff that effect solutions to problems. Thus the modern engineer requires more than traditional skills, and for success in the future he must have a basic knowledge and understanding of the applied  
<sup>20</sup> humanities.

A recent report prepared for the Province of Quebec Association of Architects stated, in defining a professional, that "the determinant characteristic of the professional is his global view of society, as expressed by his pursuit

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19. Ibid., 4, See also 9.

20. Ibid., 39.

of goals beyond the immediate interests of his client."<sup>21</sup>

Although to identify a characteristic is not to supply a definition, this statement does demonstrate a concern for service and, more particularly, service to society rather than a client, and thus service which requires knowledge which can only be furnished by interdisciplinary studies.

Despite increasingly widespread acceptance of the need for a broad basis to professional education, practice diverges widely from theory. This is a matter which, again, will be treated in greater detail when we come to discuss curricula, but it is appropriate to outline the debate now.

The conflict arises because of two simultaneous demands: the demand for a broad-based education and the demand that a complex body of specialized knowledge be mastered in a relatively short space of time. There are, then, concurrent demands for mastery of both the general and the specific. That the second demand has been accorded precedence was noted as early as 1925 by Alfred North Whitehead:

Each profession makes progress, but it is progress in its own groove. Now to be mentally in a groove is to live in contemplating a given set of abstractions. The groove prevents straying across country, and the

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21. Leonard Warshaw and Serge Carreau, A Study of the Future of the Profession for the Province of Quebec Association of Architects, Summary Report (1971), 32.

abstraction abstracts from something to which no further attention is paid.... Of course, no one is merely a mathematician, or merely a lawyer. People have lives outside their professions or their businesses. But the point is the restraint of serious thought within a groove. The remainder of life is treated superficially with the imperfect categories of thought derived from the profession.<sup>22</sup>

More recently, Mr Kenneth S. Lynn has written:

.... at the same time that they help to bridge the gulf between nations, the professions erect "No Trespassing" signs between themselves and other professional groups, especially the newer ones. And if they help to keep our society steady, they do not blaze new social pathways.... More than anything else, our professionals need to liberate themselves... from monopolistic notions of who should do what job and narrow-minded conceptions of their obligations to the community at large.<sup>23</sup>

One aspect of professional narrowness is the lack of communication between professions. In the course of interviewing professionals,<sup>24</sup> the authors of this study were

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22. A. N. Whitehead, Science and the Modern World (New York, Macmillan, 1925), 275-276.
  23. Kenneth S. Lynn, "Introduction to the Issue 'Profession'" Daedalus, 92 (1963), 653.
  24. See Appendix A, page 135, for a list of those interviewed.

struck by the general lack of respect and understanding that any one profession appeared to have for its sister professions. Each professional thought his particular field was pre-eminent in all respects; there appeared to be a general inability on the part of professionals to see their relationship to other professionals and to the general community. One prominent lawyer stated that the legal method has a wide application and society therefore needs more lawyers; an equally prominent physician stated in the course of conversation that lawyers "are a dime a dozen."

Relevant in this context is the increasing drive to professionalization.<sup>25</sup> We consider this phenomenon in some detail in the following chapter, but it should be noted here that the trend to professionalization accelerates the tendency towards intellectual fragmentation. A variety of groups, desiring greater income, status and autonomy, attempt to assume professional trappings. Ross Munro of The Globe and Mail has noted<sup>26</sup> that this movement decreases flexibility in society, cuts down occupational mobility, and prevents formation of interdisciplinary activities.

The preceding paragraphs may be summarized as follows:

(a) If the professional is to be able to recognize the

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25. See Howard M. Vollmer and Donald L. Mills (Eds.) Professionalization (N.J., Englewood Cliffs, Prentice Hall, 1966).

26. In an interview with S. R. Gibson of Applied Research Associates, July 8, 1971.

community's best interests, he must have a sophisticated understanding of arts and disciplines outside his own.

(b) Despite lip-service paid to this concept, little has been done to implement it. (c) Professionals display not only a general illiberality, but also an ignorance of their sister professions. (d) The increasing drive towards professionalization is accelerating these regrettable tendencies. These conclusions lead us to state the following propositions:

V. IT SHOULD BE AUTHORITATIVELY STATED THAT A GUIDING PRINCIPLE OF ALL PROFESSIONAL EDUCATION IS THE NEED TO GIVE THE STUDENT A LIBERAL AWARENESS OF THE SOCIAL IMPLICATIONS OF HIS PROFESSIONAL ACTS.

VI. IT SHOULD BE AUTHORITATIVELY STATED THAT A GUIDING PRINCIPLE OF PROFESSIONAL EDUCATION IS THE NEED TO FOSTER INTER-PROFESSIONAL COMMUNICATION AND ACTION.

VII. GOVERNMENTAL ATTENTION SHOULD BE DIRECTED TOWARDS WAYS OF IMPLEMENTING THE PRINCIPLES CONTAINED IN PROPOSITIONS IV, V AND VI IN A MANNER CONSISTENT WITH ACADEMIC FREEDOM.

VIII. GOVERNMENTAL ACTION, THROUGH LEGISLATION OR OTHERWISE, WHICH ENCOURAGES OR RECOGNIZES FORMATION OF NEW "PROFESSIONS" SHOULD RECOGNIZE THE IMPETUS TO INTELLECTUAL RIGIDITY AND FRAGMENTATION GIVEN BY SUCH ENCOURAGEMENT OR RECOGNITION.

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CHAPTER II: THE PROFESSIONAL, THE PROFESSIONAL ASSOCIATION  
AND THE COMMUNITY

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We have noted already dysfunctional aspects of the relationship of the professional to the community through the professional association. The foremost dysfunctional aspect is, as we have suggested, that interposition of the professional association distorts the relationship between the professional and the community, the relationship that we believe is of supreme importance. Further criticisms of the present system of professional organizations will be made at several points in Part 2 of this study. We think it appropriate at this point to make some statement about the professional--professional organization--community chain of relationship.

When we speak of professional associations, we are referring primarily to those bodies given the power to license by the State. Without membership in this type of association, an individual cannot practise his profession. The legitimate purpose of such a requirement is to protect the potentially gullible subject from incompetent and unscrupulous "experts."<sup>27</sup> The power to license, given (often along with other powers) to the association by the

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27. Moore, The Professions, Chapter 5.

State, makes of the association a public service; it "makes these bodies into organizations with a political function since they thus become agents of the organized community, officially charged with assuming certain juridically defined roles."<sup>28</sup> The Castonguay Commission of the Government of Quebec listed the following public roles in the functioning of the state assumed by the professional body:

- (1) a governmental role when it is empowered to control admission to the practice of a profession in lieu of a diploma awarded by the public education system;
- (2) a legislative role when it sets certain norms... relating to conditions of practice of the profession;
- (3) an administrative role when it is charged with the inspection and examination of professional acts;
- (4) a jurisdictional role when it is charged with judging and, as required, sanctioning acts or against existing norms.<sup>29</sup>

Friedson has made a similar point about the profession of medicine: "The foundation of medicine's control over its work is... clearly political in character, involving the aid of the state in establishing and maintaining the profession's pre-eminence."<sup>30</sup>

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28. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome I (1970), 17.

29. Ibid., 17.

30. Friedson, Profession of Medicine, 23.

It is clear that professional associations are in one sense public bodies performing public services, and should be judged by the extent to which they act in the community interest. The reason why the public roles listed above have been delegated to quasi-private bodies is that since generally only professionals have command over the body of knowledge in question, it is thought that only professionals can make the required judgements. What this argument overlooks is that there is no reason why professionals cannot make these judgements in the capacity of government servants, rather than as agents of autonomous associations. The "professional expertise" point is really only a veiled plea for the autonomy cherished by the professional. Furthermore, the premise of the argument that only one possessing specialized knowledge can make judgements concerning its exercise is open to question. Do professionals deal with mysteries beyond the ken of ordinary man and beyond the ken of professionals of a different sort? It should be remembered that there is a professional power structure with a vested interest in the belief that there are many things which can only be understood by the professional. Friedson has written:

...neither expertise nor the expert who practices it has been examined carefully enough to allow intelligent and self-conscious formulation of the proper role of the expert in a free society. Indeed, I believe that expertise is more and more in danger of being used

as a mask for privilege and power rather than, as it claims, as a mode of advancing the public interest. It can be used to conceal more privilege primarily because it is usually treated globally rather than analytically, obscured and mystified by the aura of modern science and the ideology of ethicality. It is my contention that the expert who has become a professional as I have defined it is especially prone to have obtained more influence on public affairs than his actual expertise would suggest. This has occurred primarily because the professional has gained a status which protects him more than other experts from outside scrutiny and criticism and which grants him extraordinary autonomy in controlling both the definition of the problems he works on and the way he performs his work.<sup>31</sup> The claims of professional bodies to regulate admission to their occupation and standards of practice of that occupation have increasingly come under attack. It has been argued that self-regulation may be used merely to enhance occupational prestige, to control the number of authenticated practitioners in order to reduce competition and increase income, and to protect a particular orthodoxy against reasonable alternatives.<sup>32</sup> By giving the professions the power of

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31. Ibid., 337.

32. For example, Moore, The Professions, 26.

self-regulation, the community has augmented the monopoly power which the professions naturally, in any event, acquire. Knowledge of particular value to the community is concentrated in the hands of professionals; they possess a kind of intellectual monopoly of certain vital information. Good organization of professionals generates an effective political power which supports and maintains the intellectual monopoly. Self-regulation supplements these forms of monopoly with an economic monopoly. The result is vast concentration of power, easily open to abuse, in the hands of the professional classes. The Ontario Royal Commission Inquiry into Civil Rights (McRuer Commission) noted these trends and particularly emphasized that standards of admission to a profession must be adopted as a means of assuring the public of the ability, integrity, and ethical conduct of the profession's members, and not as a means of protecting the profession's economic welfare. The professions' responsibility, said the McRuer Commission, is not only to see that persons licensed are qualified, but to see that all qualified applicants are licensed.<sup>33</sup> The McRuer Commission recommended that there be adequate safeguards against standards of admission being employed as regulatory devices to limit the number of those entering a profession.

Increasingly it has been felt that professional associations

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33. Government of Ontario Royal Commission Inquiry into Civil Rights, Report, 1172 (1968).

have been acting in a self-seeking fashion not in accord with the interest of the community. The Castonguay Commission in Quebec stated that "the reform needed of professional organization must aim not only at its modernization but also at its increased integration into society."<sup>34</sup> Said the Commission:

The highly important task which the state entrusts to professional Orders postulates for these bodies attributes which allow them to fulfill their role with the objectivity and independence they require.

As a result, no profession should be regulated behind closed doors by its own members and without the participation of the rest of the community which also is affected by decisions of professional Orders.<sup>35</sup>

The Commission further stated:

If professional Orders are to become mandatories of society (public services), it is only natural that representatives of the community (users of their services, if possible, or at least the population in general) and of public authorities (administration of the state) sit on the board of directors of these Orders. Delegation of public powers obviously postulates such a broadening of their composition.<sup>36</sup>

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34. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome 1 (1970), 33.

35. Ibid., 42.

36. Ibid., 35.

The Castonguay Commission appears to have expressed a fairly general sentiment. There is a proposal currently under consideration to have five lay members appointed to the Council of the College of Physicians and Surgeons of Ontario. In 1970 the Ontario Government established the Law Society Council of Ontario, with the stated purpose of considering the manner "in which the members of the Society are discharging their obligations to the public and generally matters affecting the legal profession as a whole."

Regrettably, however, only nine out of 91 members of the Council are laymen. The result is that apparently the Council is developing into just another justificatory and public-relations organization for the legal profession. Gordon Henderson, chairman of the Society's public relations committee, is reported as saying of the Council's program that it "is designed to ensure an adequate recognition of the performance of the profession in the fields of law reform, legal aid, discipline, education and client protection."<sup>37</sup>

Consideration of professional associations as such is outside the terms of reference of this study. However, the existence and form of these associations exerts a profound influence over professional education. Details of that influence and recommendations concerning it will appear in Part II. Nonetheless, we consider it appropriate at this point to state the following propositions:

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37. "Keeps Public Informed on Profession," Canadian Bar Bulletin (August, 1971), 4.

- IX. THE GOVERNMENT OF ONTARIO SHOULD UNDERTAKE A STUDY OF THE WORKINGS AND INFLUENCE OF THOSE PROFESSIONAL ASSOCIATIONS WITH REGULATORY POWERS WITH A VIEW TO INVESTIGATING ALTERNATIVE MEANS OF REGULATION.
- X. CONSIDERATION SHOULD BE GIVEN TO ESTABLISHMENT OF A DEPARTMENT FOR THE PROFESSIONS CHARGED WITH THE REGULATION PRESENTLY UNDERTAKEN BY PROFESSIONAL ASSOCIATIONS, AND WITH ALL OTHER MATTERS PERTAINING TO THE PROFESSIONS. <sup>38</sup>

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38. For the original suggestion of a Department for the Professions, we are indebted to Dr. Bruce Doern, Acting Director of the School of Public Administration, Carleton University, and an Associate of Applied Research Associates.

An alternative to regulation of any sort, whether it be by professional associations given power by statute, or by a department of government such as the Department for the Professions, is removal of all explicit regulation, and substitution by simple reliance on ordinary market forces.<sup>39</sup> This line of argument has been well explored by Milton Friedman who is committed to "the role of competitive capitalism--the organization of the bulk of economic activity through private enterprise operating in a free market--as a system of economic freedom and a necessary condition for political freedom."<sup>41</sup> He considers licensure as an example of the widespread phenomenon of governmental edicts preventing individuals from engaging in particular economic activities except under conditions laid down by the state,<sup>42</sup> and accordingly has a general bias against the licensing system. Says Professor Friedman of the system: "...it is already in this country [the U.S.] a serious infringement on the freedom of individuals to pursue activities on their own choice...."<sup>43</sup> Friedman identifies what he considers as the general political reason why licensing legislation is enacted. In

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39. The authors are indebted to Professor M. J. Trebilcock of the Faculty of Law, McGill University, for originally alerting us to this line of argument.
  40. Milton Friedman, Capitalism and Freedom (Chicago, University of Chicago Press, 1962) Chapter IX.
  41. Ibid., 4.
  42. Ibid., 138.
  43. Ibid., 142.

so doing, Friedman subsumes the problem of professional autonomy under the general and increasingly recognized problem of consumer protection. Each individual is both a consumer and a producer but, although he probably consumes thousands of items, he will likely produce only one. Consequently, although he will have only a slight interest in any one consumption item, he will have a very intense interest in what he produces, for his attention will not be diffuse. The result, argues Friedman, is that "producer groups will invariably have a much stronger influence on legislative action and the powers that be than will the diverse, widely spread consumer interest."<sup>44</sup> Friedman concludes: "The only way that I can see to offset special producer groups is to establish a general presumption against the state undertaking certain kinds of activities."<sup>45</sup> Otherwise, licensure "inevitably becomes a tool in the hands of a special producer group to obtain a monopoly position at the expense of the rest of the public. There is no way to avoid this result."<sup>46</sup>

Professor Friedman's argument to this point, then, has two essential components: first, licensure is an unwarranted restriction on an individual's freedom to chose his occupation; second, licensure enables a producer group to acquire a monopoly position and further its own ends at the

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44. Ibid., 143

45. Ibid., 144.

46. Ibid., 148.

expense of the consumer. As yet, the key is missing; Friedman has not yet met the central argument in favour of licensing, which is that only this system can ensure professional competence and provide clear evidence of that competence to the layman. Can substitution of market forces for governmental regulation be undertaken without jeopardizing these crucial considerations? "The answer is partly," says Friedman, "that people do not now choose physicians by picking names at random from a list of licensed physicians; partly, that a man's ability to pass an examination twenty or thirty years earlier is hardly assurance of quality now; hence, licensure is not now the main or even a major source of assurance of at least minimum quality."<sup>47</sup> But even to ask the question, he argues, is to reveal "the tyranny of the status quo and the poverty of our imagination in fields in which we are laymen, and even in those in which we have some competence, by comparison with the fertility of the market."<sup>48</sup> Friedman speculates as to developments in the medical profession if anyone had been free to practise medicine without restriction except for legal and financial responsibility for any harm done to others through fraud and negligence. He considers that medical partnerships or

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47. Ibid., 158. Friedman concentrates on the medical profession in his analysis on the grounds "that it seems desirable to discuss the restrictions for which the strongest case can be made--there is not much to be learned from knocking down straw men." (p. 138).

48. Ibid., 158.

corporations would have developed, providing central diagnostic and treatment facilities, including hospital facilities. He goes on:

These medical teams--department stores of medicine, if you will--would be intermediaries between the patients and the physician. Being long-lived and immobile, they would have a great interest in establishing a reputation for reliability and quality. For the same reason, consumers would get to know their reputation. They would have the specialized skill to judge the quality of physicians; indeed, they would be the agent of the consumer in doing so, as the department store is now for many a product. In addition, they could organize medical care efficiently, combining medical men of different degrees of skill and training, using technicians with limited training for tasks for which they were suited, and reserving highly skilled and competent specialists for the tasks they alone could perform.<sup>49</sup>

Friedman's central point is not so much that it is exactly this kind of development which would have taken place in the absence of restrictions on the practice of medicine; it is rather that there are alternatives to the present organization of the profession which are worthy of

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49. Ibid., 159.

consideration and trial. He concludes:

The impossibility of any individual or small group conceiving of all the possibilities, let alone evaluating their merits, is the great argument against central governmental planning and against arrangements such as professional monopolies that limit the possibilities of experimentation. On the other side, the great argument for the market is its tolerance of diversity; its ability to utilize a wide range of special knowledge and capacity. It renders special groups impotent to prevent experimentation and permits the customers and not the producers to decide what will serve the customers best.<sup>50</sup>

The Interim Report on Competition Policy of the Economic Council of Canada (1969) considered whether or not competition policy as represented by the Combines Act should be extended to professional services. Said the Report:

As a general rule, arrangements for determining the remuneration of self-employed professional and other groups should be subject to competition policy. Where, however, a group prefers a collective-bargaining or public-regulatory arrangement, and where conditions are such that this arrangement constitutes an adequate

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50. Ibid., 159-160.

check-and-balance system, it would be in order to grant an exemption from competition policy in respect of those matters specifically covered by the alternative arrangement.<sup>51</sup>

With regard to collective-bargaining, the Economic Council noted that in many professions this system would not operate as an effective check-and-balance. Considering the legal profession, for example, "lawyers' clients are many and varied, and not readily organizable into an "employer" interest...."<sup>52</sup> The Task Force on Labour Relations has also considered the case for collective bargaining by the professions, and observed in its Report that, if they did engage in such bargaining, self-employed professionals should "be required to act through an organization other than their licensing body in order to avoid temptation to employ licensing as a restrictive device to reduce entry and control market supply."<sup>53</sup>

We have referred already to widespread fears that the professions are not being run in the public's best interest, and have noted the monopoly power of professional associations as an explanation of this dysfunctional tendency. Proposition X suggests substituting governmental control for private control,

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51. Economic Council of Canada, Interim Report on Competition Policy (1969), 151.

52. Ibid., 150.

53. Government of Canada Task Force on Labour Relations, Canadian Industrial Relations (1969), 139.

in order to ensure that the community's interest is at all times safeguarded. It is now apparent that an alternative method of achieving these results, worthy of study, is removal of all regulation, followed by simple reliance on market forces. Advertising, word-of-mouth, and general competition, it is suggested, would not lower general competence and would lower prices. Accordingly, we suggest the following:

XI. CONSIDERATION SHOULD BE GIVEN TO THE REMOVAL OF ALL REGULATIONS GOVERNING THE PROFESSIONS WITH A VIEW TO PROTECTING THE CONSUMER BY ALLOWING NORMAL MARKET FORCES TO OPERATE.

It is sometimes suggested, by those who agree in essence that professional associations should not control professional practice, that a realistic intermediate step would be to allow professional associations to continue their present regulatory function, but to subject exercise of that function to a certain minimum level of control in order to prevent abuses. This suggestion occasionally takes the form of urging appointment of an Ombudsman for the Professions, who would have wide powers to investigate citizen complaints. The Ombudsman, it is suggested, would not himself be a professional, but would have a panel of professionals to provide technical advice. We are not convinced of the value of such an office. In the first place, it would be easy

for the panel of professionals to exert considerable restraining influence on the Ombudsman. More seriously, the governmental control exercised by the Ombudsman would be directed only at extreme abuses, which even under the present system generally are publicized and corrected. Finally, the most serious flaw of the suggestion is that apparently the Ombudsman could not settle regulatory and licensing policy, but could only check abuses of that policy. Inevitably, such an officer would become an instrument of policy devised by the associations. We feel that the problem of the professions is sufficiently serious and fundamental that this type of palliative measure will have little effect; nothing less than sweeping reform of the system will eradicate the existing evils.

We have already noted the present trend towards professionalization and have made a statement concerning it (Proposition VIII). Because of the status, power and income associated with the professions, a variety of groups without professional attributes have sought to acquire those attributes. Moore has well identified the initial stages in the drive towards professionalization.<sup>54</sup> Certain specific work activities become distinctly differentiated from others and publicly recognizable. When the activities become sufficiently differentiated and defined, their boundaries come to be drawn by rules. In the words of Moore,

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54. Moore, The Professions, 26.

"repetitive action (structure) gives rise to normatively governed subsequent action...."<sup>55</sup> Those engaged in this new distinctly recognizable occupation may already, or will shortly, band together in voluntary associations of an educational and public-relations kind. These voluntary associations soon seek the establishment in universities of courses or program training for the occupation, and power granted by the government to control admission to and standards for the occupation.

The pressure for the establishment of new courses or programs in universities is the key to the drive towards professionalization. Robert M. Hutchins, former dean of Yale Law School, former president of the University of Chicago, and now president of the Centre for the Study of Democratic Institutions has written:

The American university has... readily lent itself to the ambitions of those occupations that aspired to the dignity and emoluments traditionally associated with the professions. The way for an occupation to limit competition and acquire social standing has been to establish a so-called professional school in the state university and then require everybody who wishes to enter the occupation to show a degree from the school or its equivalent.<sup>56</sup>

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55. Ibid., 26.

56. Robert M. Hutchins, in David Haber and Julius Cohen (Eds.) The Law School of Tomorrow (New Brunswick, Rutgers University Press, 1968).

Within this context, we state the following propositions:

XII. WHEN CONSIDERING REQUESTS FOR NEW "PROFESSIONAL" PROGRAMS, UNIVERSITIES AND THE GOVERNMENT SHOULD BE AWARE OF SOCIAL AS WELL AS INTELLECTUAL MOTIVES FOR SUCH REQUESTS.

We have made reference already to the undesirable intellectual consequences of recognition by the government of new "professions." It remains here only to reproduce the following passage from the Report of the Castonguay Commission:

. It cannot be denied that there is a race towards professional status in circles which do not have it. These circles begin by applying for incorporation in voluntary associations, then they seek compulsory membership with control over conditions of admission, and they conclude by seizing the regulation of practice conditions and the control of activity stemming from it. If these groups cannot be blamed for endeavouring to improve their status without preoccupying themselves with the social justification or the juridical, one is astonished, however, by the facility with which the legislator accepts such fragmentary argumentation and perspective and grants exorbitant common law systems, without undue concern for the social effects of "corporatization" of professions and of the juridical disorder which this movement involves.

In fact, applications for incorporation are inspired more by the desire to protect members of the profession than by preoccupation with the public interest.<sup>57</sup>

One more aspect of the power of the professional associations and the drive to professionalization should be noted. A. S. Watson has written that "the legal profession may... be utilized as a stepping stone to social status and to the infra-psychic reality of being 'somebody important.'"<sup>58</sup> An obvious source of the attractiveness of a professional career is the status, income and interest attached to professional occupations. A major and generally overlooked reason for that attractiveness is the sense of identity that being a professional gives to the professional. As society grows increasingly complex, a growing problem is the individual problem of identity; the individual faces increasingly the existential question "Who am I?" The true answer to this question, if it is answerable at all, must be a highly complex one, and must be an answer that is open to challenge and doubt. In many eyes a satisfactory answer

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57. Government of Quebec, Commission of Inquiry on Health and Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome 1, 27.

58. A. S. Watson, "The Quest for Professional Competence: Psychological Aspects of Legal Education," Cincinnati Law Review, 37 (1968), 93 at 96.

to the question is: "I am a doctor" or "I am a lawyer." This answer can be thought to describe not only the answerer's daily occupation, but also indicate a certain ethical code he lives by, as well as suggesting a fairly high level of intelligence. Most important of all, it is an acceptable answer, one that is not likely to be challenged. It gives the professional an identity, both in his eyes and in the eyes of the community. The drive to professionalization and weight attached by the professional to being a professional, are symptoms of the search for identity of a restless age.

CHAPTER III: "PROFESSION"--A DEFINITION

An early but still authoritative enumeration of the characteristics of a profession is that made by Mr. Justice Brandeis in 1914, and adopted by the Report of the Committee on Legal Education (Ormrod Committee). We have already referred to a further characteristic identified by Professor Bernard Barber.

A. N. Whitehead felt he could do more than simply list characteristics, and offered as a definition that a profession was "an avocation whose activities are subject to theoretical analysis, and are modified by theoretical conclusions derived from that analysis."<sup>59</sup> A profession was to be distinguished from a craft, which was "an avocation based upon customary activities and modified by the trial and error of individual practice."<sup>60</sup>

Everett C. Hughes, Professor of Sociology at Brandeis University, accepting that professions have a theoretical basis, develops the further distinction "between professions in essence, such as medicine or engineering, which pursue knowledge to improve practice; and professions by accident, such as, say, archaeology, where the practices are merely the means to increasing knowledge."<sup>61</sup>

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59. A. N. Whitehead, Adventures of Ideas (New York, Macmillan, 1933).

60. Ibid., 73 - 74.

61. Everett C. Hughes, "Professions," Daedalus, 92 (1963) 660.

Robert M. Hutchins prefers simply to state that "a learned profession is one based on a great intellectual discipline."<sup>62</sup> This statement seems to offer no more than a means of distinguishing between learned and other professions, unless we assume all professions to be learned by definition.

Wilbert E. Moore adopts a much more complex approach to the problem of defining "profession."<sup>63</sup> He considers that professionalism should properly be regarded as a scale, rather than as a cluster of attributes. The scale is, of course, a scale composed of attributes, of which Moore identifies the following:

- (a) Practice of a full-time occupation which comprises the principal source of earned income;
- (b) Commitment to a calling, that is, the treatment of the occupation and all of its requirements as an enduring set of normative and behavioural expectations;
- (c) Formalized organization, which presupposes a distinctive occupation with a common commitment by those engaged in it to protect and enhance its interests;
- (d) Specialized education of exceptional duration and difficulty;

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62. Hutchins, in Haber and Cohen (Eds.) Law School of Tomorrow, 23.

63. Moore, The Professions, Chapter 1.

(e) Service orientation

(f) Autonomy, restrained by responsibility.

Moore fails to detail exactly how a scale of attributes differs from a cluster of attributes. Furthermore, many of the attributes he identifies are of doubtful validity as elements in the definition of "profession." For example, despite attribute (a), a member of a Bar who is a full-time businessman and not an actively practising lawyer would probably be considered by many if not most people as a "professional lawyer." Then, as we have seen, service orientation as a professional attribute is more realistically seen as an exhortation than as a statement of fact. Even within Moore's classification there are inconsistencies; for example, he refers to "service orientation," but considers another professional attribute to be the existence of an organization committed to protecting and enhancing its own interests.

The Castonguay Commission offered the following as a functional definition of "profession": "A type of activity practiced regularly and for remuneration, within the framework of a particular discipline or technique."<sup>64</sup> However, the Commission later threw up its hands in despair and stated: "The notion of professions, it has been seen,

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64. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome I (1970), 16.

has slowly lost its meaning or, in any case, no longer evokes a certain number of precise and exhaustive criteria which would make it possible to distinguish it from other types of occupation of the alleged 'non-professionals.'"<sup>65</sup>

Friedson shies away from the standard attempts to define "profession."<sup>66</sup> He first refers to two core characteristics of professions isolated by William J. Goode:<sup>67</sup> a prolonged specialized training in a body of abstract knowledge, and a service orientation. To Goode, any other characteristics, including legal recognition by licensure of professional practice, are derived from these core characteristics.

Friedson is not convinced by this analysis. In the first place, he does not believe that the "prolonged specialized training" characteristic is precise enough to be useful.

Says Friedson: "Taking the three traditional professions of medicine, law and the ministry, the range of variation in length of training (particularly in the ministry), the degree of specialization, and the amount and type of theory and abstract knowledge (particularly in the case of law) is in each case sufficiently wide that many other occupations

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65. Ibid., 39.

66. Friedson, Profession of Medicine, 77 - 84. An analysis of such standard attempts can be found in Morris I. Cogan, "Towards a Definition of Profession," Harvard Educational Review, 23 (1953) 33 - 50.

67. William J. Goode, "Encroachment, Charlatanism, and the Emerging Profession: Psychology, Medicine and Sociology," American Sociological Review, 25 (1960), 902-914.

not recognized as professions would fall within it."<sup>68</sup> Of service orientation, Friedson says that there is no reliable information which demonstrates existence of a service orientation among professionals, and, in any event, he denies "its distinct, exclusive, or predominant possession by professional occupations."<sup>69</sup> Rejecting these relatively conventional analyses, Friedson argues powerfully for autonomy as the key characteristic of the profession: "... only the issue of autonomy and control over training granted the occupation by an elite or public persuaded of its importance seems to be able to distinguish clearly among occupations."<sup>70</sup>

The most valuable part of Friedson's analysis is his examination of why it is so difficult to define the word "profession":

This is so for a number of reasons. First, the word is evaluative as well as descriptive. Virtually all self-conscious occupational groups apply it to themselves at one time or another either to flatter themselves or to try to persuade others of their importance. Occupations to which the word has been applied are thus so varied as to have nothing in common save a hunger for prestige. This statement of affairs has led Becker, for one, to claim that it is hopeless to expect the word to refer to more than a social symbol

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68. Friedson, Profession of Medicine, 78.

69. Ibid., 81.

70. Ibid., 79.

which people attach to some occupations but not to others. [Howard S. Becker, "The Nature of a Profession," in Education For the Professions 27-46 (1962)]. A second reason for the disagreement surrounding the meaning of the word lies in the strategies commonly underlying the process of definition. People frequently draw up definitions first by deciding that certain occupations "are" professions and then by attempting to determine the characteristics those occupations have in common. Since people do not agree on which occupations "are" professions - librarians? [William J. Goode, "The Librarian: From Occupation to Profession?" 21 The Library Quarterly, 306-318 (1961)] a social worker? [Abraham Flexner, "Is Social Work a Profession?" 1 School and Society 901-911 (1915)] nurses? - their definitions vary with the occupations they include (and exclude) or else are alike on such an abstract level as to be virtually inapplicable to the task of distinguishing real occupations.<sup>71</sup>

This perception of Friedson's prompts him to turn his back on the definitional problem for the purposes of his own study. "I assume," he writes, "that if anything 'is' a profession, it is contemporary medicine."<sup>72</sup>

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71. Ibid., 3 - 4.

72. Ibid., 4.

An examination of the attempts to define "profession" clearly shows the experts to be in disarray. We intend to add to this confusion, and offer the following recommendation for a general working definition of "profession":

XIII. THE FOLLOWING GENERAL WORKING DEFINITION OF A PROFESSION SHOULD BE ADOPTED: A "PROFESSION" IS A VOCATION, BASED ON AN INTELLECTUAL DISCIPLINE, REQUIRING LONG SPECIALIZED TRAINING, AND PRACTISED IN THE INTERESTS OF THE COMMUNITY.

The authors have little confidence in this definition. It is sufficiently general to be of little use. Its chief merit is that it conveniently summarizes many other definitions. Its one notable feature is that it rejects autonomy as a defining characteristic. It must be recognized that the whole attempt at definition is, as Friedson saw, to some extent a sterile exercise; no obvious consequences follow from accepting any one particular definition.

It seems appropriate for us to concentrate on obvious issues rather than inconsequential definitions. As must now be apparent, and will become increasingly apparent as the study progresses, the crucial professional issue and therefore the crucial issue of professional education is autonomy. We believe that the value of this autonomy is open to grave doubt, and should in all likelihood be severely limited; therefore we reject autonomy as a

characteristic of professions. It is for this reason that in Proposition X we suggest establishment of a Department for the Professions which will discharge the functions presently discharged by professional associations.

PART 2: THE EDUCATION OF THE PROFESSIONAL:  
The System and Its Defects

INTRODUCTION

*This part of our study examines in detail what we perceive to be the central issues arising out of the present system of professional education. Chapters IV to VI deal chronologically with the pre-professional school, professional school and post-professional school sequence. Chapter VII argues the need for emphasis on the para-professional. Chapter VIII discusses problems in financing professional education. It should again be stressed that it is our aim to generate discussion concerning issues, rather than to focus attention on the assemblage (or often reassemblage) of data.*

CHAPTER IV: ENTRANCE TO PROFESSIONAL SCHOOL

A. ADMISSION POLICIES

The professional schools, in setting admission standards, act as the formal gatekeepers to their profession. The school is the original sorting and authenticating agency. The professional school therefore provides not only an education for its students, but also a valuable practical service for the professions represented by the professional associations.

Admissions policies are crucial to the nature of the professions, for they establish the nature of future

professionals. That those who are admitted must, in a general sense, be "capable" has long been recognized, and provision has been made for it in a variety of ways. Startlingly enough, we could find little specific attention paid to the "type" of person admitted--to the character, personality, and social and economic background of the potential professional. This omission is particularly surprising, given the increasing awareness of the wide variety of significant social roles occupied by most professionals. A. S. Watson has written of law students: Insufficient attention is paid to considerations of whether the student being trained is the best one to meet all of the social roles occupied by law-trained people. There is a great need to examine this question, and until we initiate some sophisticated research on this issue, we can only continue to guess at whether we are selecting and training the most appropriate students. There will be much conscious and unconscious resistance to such research, since the individuals having the vested interest also have the means to propogate their particular methods of selection.<sup>73</sup>

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73. A. S. Watson, "The Quest for Professional Competence: Psychological Aspects of Legal Education," 37 Cincinnati Law Review, 143 (1968).

These considerations give rise to the following proposition:

XIV. A DETAILED STUDY OF THE SOCIAL ROLES AND  
RESPONSIBILITIES OF PROFESSIONALS SHOULD BE  
UNDERTAKEN WITH A VIEW TO ENCOURAGING  
PROFESSIONAL SCHOOLS TO CONSIDER THESE FACTORS  
WHEN FORMULATING ADMISSIONS POLICIES.

It should be noted that Watson expects resistance to the kind of research recommended above on the grounds that "the individuals having the vested interest also have the means to propagate their particular methods of selection." Traditionally, the most powerful influence on admissions policies, apart from the professional school itself, has been the professional association. Milton Friedman has observed that control over admission to medical school and later licensure enables the profession to limit entry in two ways: "The obvious one is simply by turning down many applicants. The less obvious, but probably far more important one, is by establishing standards for admission and licensure that make entry so difficult as to discourage young people from ever trying to get admission."<sup>74</sup> The influence of professional associations over admission policies has lately been the subject of much criticism. The Castonguay Commission reported in these terms:

Conditions essential to admission to practice of a profession established as a monopoly should be set by

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74. Friedman, Capitalism and Freedom, 151.

legislation; in no case should Orders have the right to determine the qualities required by candidates to the practice. It is the legislator, by means of State diplomas, who should determine general conditions of admission to professional practice. The only role of Orders in this respect should be to assure the presence of the qualities required. Anything resembling limitation of competition should be eliminated.<sup>75</sup>

The Ontario Committee on the Healing Arts included among its recommendations the following:

That the Medical Act be amended to remove the power of the College of Physicians and Surgeons of Ontario to specify either minimum admission requirements or minimum curriculum for medical education.<sup>76</sup>

That control by the licensing bodies of the professions over the admission requirements of the publicly supported professional schools and over their curricula should be terminated. The concern of the regulatory bodies of the practising profession should be confined to the regulation of the practising profession and to an assessment of the competence of applicants for licensure who have been trained elsewhere than in Canadian professional schools.<sup>77</sup>

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75. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome I (1970), 50.
  76. Government of Ontario, Committee on the Healing Arts, Recommendations, Recommendation No. 5, 15.
  77. Ibid., Recommendation No. 317, 51.

The reason for the influence of professional associations when they do not have a statutorily enshrined role is not hard to find. Professional schools in North America are primary examples of what Robert Hutchins, President of the Centre for the Study of Democratic Institutions, has called the "how-to-do-it" tradition.<sup>78</sup> The vast majority of students in the schools are training to be practitioners, and they want the training laid down by the association which regulates admittance. This phenomenon, which we will consider at greater length in our Chapter on curricula, enables associations to exert great influence over schools. This influence in turn strengthens the "how-to-do-it" tradition which enables the influence to be exerted in the first place. It will likely be of a conservative nature, coming from older men who are leaders of the various professions. It should be noted that these men themselves gained admittance at least a generation ago, when admittance standards were lower, and that generally they do not exert pressure for the elevation of admittance standards, since such elevation implicitly suggests that the standards according to which they were admitted were too low.

We believe that active measures must be taken to combat the "how-to-do-it" tradition. The foundations of this belief and its implications will be discussed at greater

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78. Hutchins, The Law School of Tomorrow, 11.

length when we explore curricula. We mention it here because of its affect on admissions policies. To support our approach at this point, perhaps it is sufficient to quote Karl Mannheim, who has said that "although it produces the necessary cogs and wheels in the social machine, specialist education disintegrates both the personality and the mental powers for understanding the human situation which has to be mastered."<sup>79</sup>

The obvious measure is to remove the requirement that professionals obtain a university education. Removal of this requirement would mean creation of an alternative, (perhaps apprenticeship) "how-to-do-it" education , which would be available to those who simply wished to become practitioners. University schools would then be released from practitioner and future-practitioner pressure, and would be free to take a more theoretical turn. Such a system has existed in English legal education, where a university degree is not required for admittance either as a barrister or solicitor. The result has been wide-ranging university legal education taken by many who do not intend to become legal practitioners. An even more radical measure would be to remove any kind of pre-licensing examination educational requirement whatsoever. It would be open to anyone to take professional qualifying examinations;

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79. Quoted by Hutchins, in ibid., 13.

all that mattered would be their ability to pass this examination. The great virtue of such a system would be the apparently great equality of opportunity and the increased accessibility of professional status. Theoretically, a disadvantaged person could, through many years of private undirected evening study, reach a point where he could take and pass Bar examinations, and thereby transform himself from a factory worker into a lawyer. No doubt the flaw in this suggestion is its lack of realism; it is highly unlikely that anyone could reach the necessary level of expertise without going through a well-organized system of learning. But, nonetheless, assuming that licensing examinations (if retained) adequately test for the skills and qualities necessary to be a competent professional, no harm could be done by making this opportunity available to the disadvantaged but unusually gifted individual.

We reject as a solution the removal of the university education requirement. The attractiveness of this solution is specious. Were it to be implemented, we might have better university professional schools, but we would have them only because strict "how-to-do-it" non-university professional schools had been created. In connection with these latter schools, we would face the same difficulties we have discussed above. The solution is not really a solution at all. We simply create a more complex system of education. Furthermore, any such suggestion flies in the face of contemporary thinking. With respect to English legal

education, the Ormrod Committee has recommended that "as soon as practicable the obtaining of a law degree should become the normal mode of entry to the profession...."<sup>80</sup> When we suggested to Dean G. E. LeDain of Osgoode Hall Law School, York University, that perhaps the LL.B. should be removed as a requirement for entry into the Ontario legal profession, Dean LeDain said he would consider such a step "retrogressive."<sup>81</sup> As early as 1933, Carr-Saunders and Wilson, in a classic study, wrote the following about English legal education:

.... The loss of contact between the legal profession and the universities... has set up a vicious circle. The study of law is not followed as much by universities in this, as in other countries, because they do not license for the profession. In consequence, practising members of the profession are not initiated into the habit of studying more than the routine aspects of their craft, and the great majority of lawyers fail to develop an interest in study for its own sake. Those who do develop such an interest remain for the most part cut off from the practice of law, with the result that their work, though extremely valuable, is highly academic in character and tends to flow in historical rather than

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80. Government of the United Kingdom, Committee on Legal Education, Report (1971), 14.

81. In an interview with P. W. Slayton and H. Riml for Applied Research Associates, on July 8, 1971.

practical channels.<sup>82</sup>

However, we do consider as a possible general solution worthy of closer study the reapportionment of the time-division between the university and apprenticeship stages in professional education. An expanded apprenticeship stage, made possible by shortening the formal period of university training, might take the "how-to-do-it" pressure off the professional schools.

In general terms, we are of the opinion that university professional schools should actively encourage individuals who do not intend to be professional practitioners to take professional-type training. We must not lose sight of the fact that the best way to encourage those who will not practise to take professional education is to offer wide and liberal curricula. *We must not forget that the prime benefit of such a change will be conferred on those who do go on to practise their profession.*

Accordingly, we suggest the following propositions:

XV. NO PROFESSIONAL ASSOCIATION SHOULD HAVE THE POWER FORMALLY AND DIRECTLY TO ESTABLISH ADMISSION STANDARDS FOR PROFESSIONAL SCHOOLS.

XVI. A DETAILED STUDY SHOULD BE UNDERTAKEN OF THE POSSIBILITY OF REAPPORTIONING TIME DIVIDED IN PROFESSIONAL EDUCATION BETWEEN FORMAL AND

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82. A. M. Carr-Saunders and P. A. Wilson, The Professions (Oxford, Oxford University Press, 1933) 484.

APPRENTICESHIP STAGES OF EDUCATION, WITH A VIEW TO DECREASING THE PRESSURE ON UNIVERSITY PROFESSIONAL SCHOOLS TO PROVIDE A HIGHLY TECHNICAL EDUCATION AND THEREBY MAKING ADMISSION TO PROFESSIONAL SCHOOLS MORE ATTRACTIVE TO THOSE WHO DO NOT WISH TO PRACTISE.

XVII. CONSIDERATION SHOULD BE GIVEN TO REMOVING ALL EDUCATIONAL REQUIREMENTS FOR THE TAKING OF PROFESSIONAL LICENSING EXAMINATIONS IN ORDER TO PROMOTE EQUALITY OF ACCESS TO THE PROFESSIONS.

XVIII. GENERALLY, UNIVERSITY PROFESSIONAL SCHOOLS SHOULD NOT DISCOURAGE ADMISSION OF THOSE WHO DO NOT INTEND TO BE PROFESSIONAL PRACTITIONERS.

Attention has recently been focussed on what has been alleged to be discrimination against women in the professions. The National Education Association in the United States has determined that at present fewer than six percent of law students and eight percent of medical students in the United States are women.<sup>83</sup> Recent statistics show that in the engineering profession in Canada, for example, there are only 35 women, although there are altogether well over 30,000 practising engineers.<sup>84</sup> The statistics indicate fairly

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83. Reported in The Daily Telegraph (London) August 10, 1971.

84. A. Majurins, "Women in Science and Engineering - The Lost Resource," Appendix in Ring of Iron: A Study of Engineering Education in Ontario, A Report to the Committee of Presidents of Universities of Ontario (1970).

clearly that the number of women who undertake professional training is very small indeed. It is not too difficult to guess why this is so. Traditionally women have not been career-oriented, conforming to the general expectation of society that the role of a woman is to be a wife and mother, and not a lawyer or doctor. The demand by women for professional education has therefore been slight. This phenomenon has been encouraged by the conviction that professional education was only justified if the student intended to be a lifetime practising professional; the result of this conviction is that there is a point in offering professional education to a woman only if she is prepared to forego entirely her traditional function. Lurking behind all these arguments is the spectre of cost: professional education is so expensive, and the need of the community for professionals is so great, that the feeling has been that only those who will fully, over their lifetime, utilize their education, should be given it by the State.

Social and economic facts have gradually changed since the premises described above were formulated. Childrearing has come to be regarded as only one of several possible avenues for a woman's self-fulfilment, and childrearing itself is no longer a lifetime occupation. It has also been recognized that it is highly discriminatory to encourage women to become public school teachers but not university professors, nurses but not doctors, interior decorators but

not architects. Furthermore, a recent cost-benefit study<sup>85</sup> shows, for example, that, for women doctors, this indicator is lower than for male lawyers. Therefore, on a cross-professional comparative basis, the economic argument against women professionals becomes questionable.

Accordingly we suggest for consideration the following propositions:

XIX. A UNIFORM AND EXPLICIT POLICY TOWARDS THE PROFESSIONAL EDUCATION OF WOMEN SHOULD BE FORMULATED BY THE GOVERNMENT OF ONTARIO.

XX. THE ONTARIO POLICY TOWARDS THE PROFESSIONAL EDUCATION OF WOMEN SHOULD RECOGNIZE, BOTH THEORETICALLY AND BY TAKING PRACTICAL STEPS, THE RIGHT OF WOMEN TO EXPRESS THEMSELVES THROUGH PROFESSIONAL ACTIVITY.

An allied issue which has lately generated considerable discussion and controversy is the question of minority admissions. The debate has centred in the United States, where professional schools have been faced with pressure to admit into the schools what many consider a disproportionate number of black Americans. Professor Lino Graglia has described the situation: "The basic principle underlying the new admissions policy is that because Negroes have been so long and so severely discriminated against in our society,

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85. Systems Research Group, "Cost and Benefit Study of Post-Secondary Education in the Province of Ontario, School Year 1968-69," prepared for The Commission on Post-Secondary Education in Ontario (1971).

merely ending this discrimination is not enough - discrimination in their favour is required...."<sup>86</sup>

Charles Pinderhughes, Assistant Dean for Student Affairs at Tufts Medical School, had a considerable hand in developing minority admission programs when Tufts Medical School underwent a period of expansion in 1967-70. Applying these concepts to law schools, Dr. Pinderhughes has recently written: "Law schools have a responsibility to develop lawyers to serve the many people who are deprived of legal services. This can best be accomplished by recruiting individuals from the law-deprived ethnic groups and from the law-deprived subgroups within those ethnic groups, and ensuring that those recruited identify psychologically and emotionally with some deprived group and want to serve its members."<sup>87</sup>

The central premise upon which these demands are based is that some groups do not have their fair share of essential services or educational opportunities; the best way of ensuring that these groups get their fair share is for each group to have among its members lawyers, doctors, and so on.

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86. Lino A. Graglia, "Special Admission of the 'Culturally Deprived' to Law School," University of Pennsylvania Law Review, 119 (1970), 351. For a general and detailed discussion of minority admissions, R. M. O'Neil, "Preferential Admissions: Equalizing the Access of Minority Groups to Higher Education," Yale Law Journal, 80, (1971) 699.
87. Charles A. Pinderhughes, "Increasing Minority Group Students in Law Schools: The Rationale and the Critical Issues," Buffalo Law Review, 20 (1971), 447.

This premise has unmistakable implications for admissions policies. Scholastic achievement, so often needing economic and social security for its attainment, cannot be the sole criterion for admission. But what is to replace or supplement scholastic achievement as the yardstick? Those advocating minority admission programs are noticeably evasive when confronting this problem. Dr. Pinderhughes writes:

When scholastic achievement is used as the main criterion for selecting among the applicants, those with economic or educational deprivations are apt to be eliminated although their aptitude for the practice of law may be high and their motivation to serve may be excellent. In fact, many applicants who have been busily serving others, or working to pay for their own education are unable to compile an impressive scholastic achievement record for these reasons. Yet, it is likely that more of these applicants would eventually provide services to legally deprived people because of their personal qualities, their identifications and their experiences.

Despite very real difficulty in determining objective criteria to supplement or replace the criterion of scholastic

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88. Ibid., 454.

achievement, a number of universities and professional schools in the United States have implemented minority admission programs.<sup>89</sup> The University of Chicago Law School generally requires an applicant to score at least 650 on the Law School Aptitude Test, but has been admitting blacks with scores of as low as 420. Stanford University has allowed some blacks with low scores to take a law degree in four years, instead of the normal three. The University of Georgia in 1968 instituted a more sophisticated program. A summer course was designed to give an applicant with a good academic record, but whose performance in the Law School Admission Test was below the normal standards of admission, an opportunity to study law during the summer and, if successful, to continue as a member of the entering class in the autumn. The result of these various programs has been that although in the mid-1960s there were only a few hundred minority-group students in American law schools, by 1970 there were 2,154 blacks and 885 other minority-group students.

In 1970 the City University of New York adopted an open admissions policy, under which any student graduating from a New York City high school is guaranteed admission to the university. A primary goal of open admissions was to enable more members of minority groups to enrol in the university. In the first year of the program, 9,000 of the

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89. D. A. Ijalaye, "Concessional Admission of Underprivileged Students," Buffalo Law Review, 20 (1971), 435.

35,000 freshmen admitted would not have been eligible before open admissions, and for the academic year beginning in the autumn of 1971, 12,000 of the total 40,450 would not have been eligible. Between 1969 and 1970, the total black enrolment of the university went from 14.3 percent to 16.7 percent, and the Puerto Rican enrolment from 3.8 percent to 4.9 percent. But the percentage of day freshmen who dropped out of the university in 1970 was nearly twice as high--12.4 percent--among open admissions freshmen as it was for their classmates.<sup>90</sup> Coupled with the open admissions program is an extensive program of remedial work; those who require such work are kept out of the regular courses until considered ready. In this way, academic quality, it is hoped, is protected. Remedial work has also been characterized as an attempt to stop students from giving up, and thus a sharp contrast to a traditionally harsh sink-or-swim policy in the past.

Lino Graglia has powerfully attacked the whole notion of minority admissions. He writes: "Societally approved racial discrimination, even as a temporary expedient to rectify past racial discrimination, dilutes the purity of that goal and undermines our most basic ideal that individual merit and individual need should be the only relevant

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90. M. A. Farber, "Open Admission Dropouts Double Usual City University Rate," The New York Times, September 12, 1971, 1, and F. M. Hechinger, "Open Admissions: So Far So Good, But Final Score is Not in," The New York Times, September 19, 1971, Section E, 11.

considerations for societally distributed rewards and benefits."<sup>91</sup> Professor Graglia has further argued that if a student is admitted to a professional school, not as an individual, but as a representative of a minority group, he will in the long run be judged not as an individual but as a member of a minority group. If that individual turns out to be ineffective, not reaching the normal standard of competence, the effect will likely be a reinforcement of stereotypes of incompetence.<sup>92</sup>

The dominant consideration behind the creation in American law schools of minority admission programs has obviously been the American racial problem. Nonetheless, the issue of minority admissions and the general concepts developed in the American debate are applicable to professional education in Ontario. Ontario, like most political units, has within its borders a number of economically disadvantaged groups. Regrettably, those who are poor very often come from an ethnic minority. The question is whether, bearing in mind the issues that have been raised in the United States, professional schools should devise more sophisticated entrance requirements which will allow a greater number of

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91. Graglia, "Special Admission of the Culturally Deprived," 352.

92. For a criticism of Graglia's arguments, Derrick A. Bell, "In Defence of Minority Admissions Programs: A Response to Professor Graglia," University of Pennsylvania Law Review, 199 (1970), 364.

representatives of disadvantaged groups to attend professional schools. We are, on balance, opposed to such a development, although we recognize the need for considerable discussion of the subject. In our view, the following considerations militate against minority admission programs. In the first place, as we have already observed, professional education in our society has as one of its functions the stimulating of upward social mobility. The best way, and a way often utilized, for a member of the lower class to step firmly into the ranks of the middle class, is for him to become a lawyer, a doctor, an architect, or some other professional. We believe that it is naive to expect to provide disadvantaged groups with professional services by professionally educating representatives from those groups. Those educated simply remove themselves to a different group. We recognize, of course, the desirability of allowing even a handful to throw off the shackles of their disadvantaged status; but we think it misleading to claim that by making this possible we also inevitably benefit the whole disadvantaged group. We prefer, as a way of providing greater professional services to minority groups, an emphasis on the para-professional technique which we shall describe in Chapter VII. Furthermore, we fear that lowering scholastic admission standards to professional schools would generate a severe pressure to lower academic standards within the schools.

Once a disadvantaged student was admitted, pressure would be exerted to allow him to graduate successfully, and this may often imply a lowering of internal standards.

The two most widely discussed options can then be summarized by saying that either members of minority groups are admitted on a preferential basis and general standards are lowered in the process, or free intellectual competition is allowed to continue and minority groups will largely be excluded from higher professional training. But, the problem can be seen from a different point of view. The question surely is not whether some abstractly defined standard can be maintained; rather it is whether education is accessible to those who can most benefit from it. On this basis we can see at least two possible developments in Ontario:

(1) The colleges of applied arts and technology could offer a second, more practical type of training in all the professions. An avenue has to be opened for those students who show exceptional ability to transfer readily to the universities at any stage of their training. This possibility could be associated with our propositions on para-professionals which appear in Chapter VII.

(2) Students could be given a choice over their curriculum which would allow them to concentrate on those subjects and problems for which their previous life makes them particularly qualified. This specialization should of course be recognized in the eventual licensing. The life experience

of members of minority groups could powerfully contribute to the intellectual vitality of professional education. Issues of public health and preventive medicine have great meaning to members of poor communities, and members of certain ethnic groups have a firsthand experience of certain forms of commercial and legal exploitation. This knowledge should not go untapped in professional education. The liability of an underprivileged early life could in this way be turned into an educational advantage through professional education.

With these considerations in mind, we suggest for deliberation by the Commission the following proposition:

- XXI. THE PROPOSED DEPARTMENT FOR THE PROFESSIONS (OR ANOTHER AGENCY IN THE ONTARIO GOVERNMENT) SHOULD EXAMINE IN DETAIL THE QUESTION OF MINORITY ADMISSION PROGRAMS IN PROFESSIONAL SCHOOLS.
- XXII. THE FEASIBILITY OF ESTABLISHING A RANGE OF PROFESSIONAL PROGRAMS IN THE CAATs SHOULD BE INVESTIGATED BY THAT AGENCY.
- XXIII. SPECIALIZED CURRICULA FOR MINORITY GROUPS IN PROFESSIONAL SCHOOLS SHOULD BE EXAMINED, IN CONJUNCTION WITH A WIDER SET OF LICENSING OPTIONS.

B. PRE-PROFESSIONAL EDUCATION

The most important question to be asked in connection with pre-professional education is whether such education is necessary. Need the lawyer, the doctor, or any other

professional, follow a lengthy pre-professional post-secondary course of studies which bears no direct relation to his ultimate vocation?

Generally, thinking on the question of pre-professional education appears quite open, with a number of possibilities being canvassed. The Special Committee on Legal Education of the Law Society of Upper Canada received a brief on March 22, 1971, from Osgoode Hall Law School which said:

The issue of how much pre-legal education should be required, as a minimum, turns mainly on the quality of such education, particularly at the secondary and undergraduate levels. It may well be that a good application of time and effort at the secondary level could meet the minimum requirements for general knowledge and intellectual maturity, but the present assumption is that our system of secondary education is not able to achieve these minimum requirements, and that a higher level of general education and maturity than that attained at the end of the secondary system is desirable as a preparation for the study of law. What it should contain and how long it should take are not so clear....<sup>93</sup>

The brief goes on to state that even if agreement could be achieved on a list of pre-legal subjects that would constitute a satisfactory background for the study of law, it would not

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93. Osgoode Hall Law School, Brief to the Special Committee on Legal Education of the Law Society of Upper Canada (1971), 5-6.

be practical to restrict admission to those students who had taken such subjects. Such restriction "would severely restrict the supply from which students could be drawn and would exclude many good students, who, for one reason or another chose another undergraduate program. We would be sacrificing ability for a certain background of knowledge, which, although it might be useful for certain subjects in law, is not absolutely essential."<sup>94</sup>

Osgoode Hall Law School canvasses the possibility of offering students a combined pre-legal and legal program which they could enter at the end of their secondary education. The brief notes that generally such a combined degree is looked upon with disfavour by other faculties, who view it as a "back-door" way of obtaining their own degree. Nonetheless, such a scheme would help those students who wish to begin law study fairly early, but want to keep their options open by acquiring an undergraduate degree.

The conclusion of the Osgoode Hall brief concerning pre-professional education is that:

The modern academic education in law presupposes a general level of intellectual maturity and sophistication that is not ordinarily achieved by the end of the secondary system of education, and it is therefore highly desirable that a person should have a period of undergraduate university education

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94. Ibid., 6-7.

before entering the study of law. We believe that a minimum of two years of pre-legal university education is essential, and that it is desirable that a person have obtained an undergraduate degree in all but exceptional cases.<sup>95</sup>

In a brief to the Commission on Post-Secondary Education, the Ontario Council of Deans of Medicine noted an impetus for the liberalization of premedical requirements. Although legal responsibility for defining admission requirements presently rests with the College of Physicians and Surgeons of Ontario, in actual fact the College generally accepts the recommendations of medical schools, and the liberalization impetus has originated in those schools. The brief of the Council of Deans observed:

Traditionally, admission to medical school has required a bachelor's degree or two years in certain accepted premedical programs with an emphasis on the natural sciences. Recent changes allow a substantial relaxation in premedical prerequisites such that the student may be required to present a qualification in organic chemistry and an ability to perform in science subjects or only the latter. An interest in the humanities or social sciences no longer constitutes an obstacle to admission and may, in fact, be a sought-after qualification.

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95. Ibid., 2-3.

An experiment is currently in hand to investigate the possibility of reducing the premedical experiment to one year after Grade XIII and the possibility of admitting selected students from Grade XII to a program, leading to medicine is worthy of investigation.<sup>96</sup>

A discordant note in the general trend is to be found in the field of chartered accountancy. In 1959 the "Martin Report"<sup>97</sup> recommended that by 1970 university graduation should become the admission requirement for the provincial institutes of accountancy programs of study leading to the "chartered accountant" designation. After considerable study of this recommendation, in 1969 the by-laws of the Institute of Chartered Accountants of Ontario were amended to provide that after October 1, 1971, university graduation would become the basic admission requirement to the program of study leading to the "chartered accountant" designation.

In general, then, there appears to be a trend towards rethinking and relaxing the pre-professional post-secondary educational requirements, although anomalies, such as

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96. Ontario Council of Deans of Medicine, "The Role of the Medical School in Health Science Education," Brief 114 to the Commission on Post-Secondary Education in Ontario (February 4, 1971).
  97. W. F. Martin, Report to the Education and Examinations Committee of the Provincial Institutes of Chartered Accountants (1959).

developments in the chartered accountancy field, can be detected. We are encouraged by this trend. Again, we feel that further study of this development is required, in order that its significance and desirability may be seriously assessed, but prima facie we welcome the development, since it seems that it will lead to a general "opening" of professional education. As few irrelevant obstacles as possible should be placed in the way of those who want professional education and are able to benefit by it, and a general loosening of pre-professional requirements cannot help but encourage attainment of this end. Furthermore, the loosening of pre-professional requirements is in accord with our feeling that greater emphasis must be put on making a more liberal professional education available. It should not be necessary, for example, for a pre-medical student to spend long years studying marginal scientific subjects; it should be open to that student to study liberal arts or social sciences.

It is clear that the present system of professional and pre-professional education is composed of a number of rigid steps; generally, a would-be professional can proceed only by ascending the steps and without omitting any steps; furthermore, once he begins to climb the ladder, the only possible outcome of his ascent is to reach the top of that particular ladder; he cannot, to mix metaphors, change ladders in mid-stream!

This method of entry into professional programs has at least two serious drawbacks. In the first place, it requires a very unusual and demanding degree of foresight on the part of the student. If he desires professional training, he must decide that he does, and choose the kind of training he wants, at an early stage in his education, in order to ensure that he completes the correct preliminaries; if there is only one long road to being, for example, an architect, he must either get on that road early, or be prepared to begin later than others and after "wasted" years. Furthermore, the potential professional cannot afford to make the wrong choice; once he is on the way towards completing the rigid educational requirements, there is often no opportunity to switch to another field of endeavour without losing more years of study. The degree of foresight demanded by the present system is, then, very great and much higher than that required in most other areas of human activity. Moreover, it is being demanded of young and often immature people.

The second perturbing effect of the present method of entry into professional programs is the way in which it discriminates against what are popularly termed "late starters." As we have noted, the choices must be made early. The early educational requirements are rigid and demanding. The student who does not make the appropriate and early choice, and who cannot meet early demanding

requirements, will find it very difficult later, when his motivation and intellectual capacities improve or are realized, to move into professional training. The effect is to reinforce the middle-class middle-intellectual nature of the professions, and reinforce the kind of "discrimination" we have noted in our discussion of admission into professional programs.

The nature of this problem is increasingly being realized, and attention is steadily being focussed upon it. The Carnegie Commission, for example, recommended that an extra mobility point or decision-making point for the medical student be provided by creating a degree between the B.A. and the M.D. Such a degree, said the Commission, could be called a Master of Philosophy in Human Biology, or a Bachelor of Medicine, or a Master of Science in Human Biology. Having completed that degree, the student could decide whether to go on to the M.D., move in the direction of the Ph.D., or take employment as a teacher or para-professional (see Chapter VII). Furthermore, such a scheme would enable the medical school, at the point of the intermediate degree, to advise the prospective M.D. and to judge his potential.<sup>98</sup> This recommendation of the Carnegie Commission, of course, only attacks the problem of someone who wants to shift out of professional training at a late stage, and does not

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98. The Carnegie Commission on Higher Education, Higher Education and the Nation's Health (1970), 9.

deal with the problem of someone who wants to shift in at a late stage.

For consideration, we state the following propositions:

- XXIV. THE RELEVANCE AND DESIRABILITY OF RIGID PRE-PROFESSIONAL POST-SECONDARY EDUCATION REQUIREMENTS SHOULD BE THE SUBJECT OF FUTURE STUDY.
- XXV. THE DESIRABILITY OF CREATING NEW ENTRY AND EXIT POINTS INTO PROFESSIONAL EDUCATION SHOULD BE RECOGNIZED.
- XXVI. A DETAILED STUDY SHOULD BE UNDERTAKEN OF THE WAY IN WHICH THE PRESENT SYSTEM OF EDUCATION CAN BE RESTRUCTURED TO PROVIDE SUCH ENTRY AND EXIT POINTS.

We point out that mere liberalization of curricula means little, if access to that curricula remains rigid and inflexible.

CHAPTER V: THE PROFESSIONAL SCHOOL AND PROFESSIONAL CURRICULA

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A. CURRICULA

A basic issue in study of professional school curricula was correctly identified by the Committee on the Healing Arts. The Committee asked whether the formal education required of occupational health groups should be comprehensive, in the sense that it qualifies the graduate for immediate practice, or should be merely preparation for a person to become a doctor, dentist, or nurse. The Committee clearly favoured the latter view, considering that there were dangers in treating formal health education requirements as being comprehensive experiences; the Committee felt that the rapid obsolescence of knowledge in the field of health care makes such a view not only inappropriate but dangerous.

What we face is a tension between at least three factors: (1) the need for the professional student to acquire mastery over a considerable body of complex knowledge; (2) the need for the professional student, in preparation for a complex social role, to be, in the best sense of the term, a well-educated person; (3) the very limited time in professional school in which to fulfil these educational requirements. An additional and related problem is the need of most professionals to acquire both a general professional knowledge and the ability to use a whole host of specific techniques.

The Ormrod Committee states that "the fundamental problem may be defined as that of combining the education which is necessary to enable a person to follow a 'learned' profession, with instruction in the skills and techniques which are essential to its actual practice."<sup>99</sup> The Ormrod Committee Report strongly stresses the need for early mastery of technique; perhaps a sounder and more desirable view is that stated by René Dubos: "The only knowledge of permanent value is theoretical knowledge; and the broader it is, the greater the chances that it will prove useful in practice, because it will be applicable to a wide range of conditions."<sup>100</sup> In their pioneering work, Carr-Saunders and Wilson argued that "a professional man should be an educated man in the broad sense of the term, if he is to play his proper part in the application of his technique to the needs of society."<sup>101</sup> Professor Otto Kahn-Freund, former Professor of Comparative Law at Oxford University in England, has written that "it was and is the essence of a learned profession that apprenticeship, while indispensable, is not sufficient. Mere training is not enough, education is necessary in the untranslatable sense of the word... 'formation' or 'Bildung' which denotes forming

99. Government of United Kingdom Committee on Legal Education, Report (1971), 33.

100. Quoted by Hutchins, in Haber and Cohen (Eds.) The Law School of Tomorrow, 7.

101. Carr-Saunders and Wilson, The Professions, 372.

of personality as well as the indication of knowledge."<sup>102</sup> The authors feel that, in the earlier stages of professional education at any rate, the emphasis must be on the generality, rather than on specific aspects of professional knowledge or technique.

The debate on curricula rests, of course, on the premise that how the future professional is educated will determine how he acts once qualified. It considers that the individual is highly vulnerable and will be affected by the pressure emanating from his environment. Friedson accepts this premise, but argues from it that education is a less important variable than work environment.<sup>103</sup> He points out that "Peterson and his associates could find little relation between variations in professional education and the technical performance of general practitioners some years after graduation, nor could Clute in a Canadian study of similar character."<sup>104</sup> In Friedson's view, these and a number of similar studies support the conclusion that "quite critical elements of professional behaviour--the level of technical

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102. O. Kahn-Freund, "Reflections on Legal Education," Modern Law Review, 29 (1966), 121.

103. Friedson, Profession of Medicine, 87-90.

104. Ibid., 89. See Osler L. Peterson, An Analytical Study of North Carolina General Practice, 1953-54 and Kenneth F. Clute, The General Practitioner, A Study of Medical Education and Practice in Ontario and Nova Scotia (1963).

performance, the approach to the client, 'cynicism' and ethicality--do not vary so much with the individual's formal professional training as with the social setting in which he works after his education."<sup>105</sup> We draw attention to this line of enquiry in order to indicate that it may well be an error to stress the supreme importance of professional education in influencing future professional conduct.

The general trend, then, and one of which we approve, is towards less rigidity in the curriculum. In some instances this development has been powerful enough to render the concept of a "core curriculum" almost meaningless. The whole development has been given greater impetus by the relatively new demand for "relevance" in curricula, a demand which usually means that students desire courses which deal in a fairly specific way with current social ills and problems. Wilbert Moore has recently identified the following as being components of professional school curricula: (1) what the professors learned, which is necessarily a college generation earlier and usually a full biological generation earlier; (2) what the qualifying (and certifying) authorities think should be known (and those composing these authorities are likely to represent a full biological generation or more in ascendancy); and, (3) what the new revolutionaries on the professional school faculty

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105. Ibid., 89-90.

think is appropriate for the training of future professionals.<sup>106</sup> Despite the recent vintage of this analysis, it is already out-of-date. It does not recognize the very considerable and often successful pressure being exerted on the whole educational process by revolutionary (or perhaps simply progressive) students. In general, again, this pressure is for greater liberality and relevance.

The demand for relevance is the demand for professional school curricula to take account of such phenomena as destruction of the physical environment, "exploitation" of tenants by landlords, and the crisis in the non-medical use of drugs. Students, young professors, and interested laymen therefore, ask for courses in professional schools such as those dealing with how the law may be used to prevent ecological destruction, how the law may be changed to give greater power to tenants, and how those who are medically-trained can meet the challenges of drug abuse. Perhaps the least amount of such pressure comes from practitioners; those already in practice are not familiar with this kind of new curriculum and often are resistant to it. The nature and form of this resistance is discussed below.

Inextricably connected with the new need for relevance is mid-career education, which is the only means of ensuring the necessary adjustment on the part of those who are

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106. Moore, The Professions: Roles and Rules, Chapter 4.

already in professional practice. We return to this theme in the following chapter.

We propose now to consider some representative curricula in detail in order to examine specific reflections of the general trends we have been describing.

A student can become a registered nurse by pursuing a diploma level or baccalaureate degree level nursing education program. Baccalaureate programs have been described as "characterized by a broad theoretical base in the arts, sciences and humanities, as well as nursing."<sup>107</sup> The program lasts four years. The diploma level of nursing education is generally conducted in single-discipline schools associated with the voluntary hospital system. This association has often led to diploma nursing education being subordinated to hospital service needs. Dr. Helen Carpenter, director of the University of Toronto School of Nursing, has commented:

Students were trained to perform technical functions, but they had little, if any, exposure to the components of a liberal education. Inclusion of these components is essential today, if the nurse is to respond to the scientific and technological advances in health care.

For forty years leaders in nursing have urged that

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107. Helen M. Carpenter, Brief to the Commission on Post-Secondary Education in Ontario from the University of Toronto School of Nursing, Submission No. 237, April 28, 1971.

educational preparation of practitioners be liberal in nature and that it be within the general educational system where nursing students would study along with other students being prepared to make their contribution in the broad field of social endeavour.<sup>108</sup>

This type of statement must be approached with a modicum of caution, given the observations we have already made concerning the drive for professionalization, and given the at present clearly secondary role played by nurses in the field of health care. However, the recommendations of Dr. Carpenter accord well with the propositions in our chapter on para-professionals and we are therefore inclined to endorse her views. The most important thing to note is the care taken to point out that the baccalaureate nursing program is of a liberal nature, and the criticisms of the diploma program for not being of this nature. Clearly, in the field of Ontario nursing, the desired emphasis is on a wide-ranging and academic form of training.

Some of the most dramatic developments in professional school curricula have taken place within Ontario medical schools. The Ontario Council of Deans of Medicine has described the basic change in principle which has made the recent curricula changes possible:

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108. Ibid., 7. George M. Weir, Survey of Nursing Education in Canada (1932) 393, Helen Mussallem, Nursing Education in Canada (1965), 129, and Katherine MacLaggan, Portrait of Nursing (1969), 103.

In the past, undergraduate medical curricula have been "closed" programs through which the students progressed in a lock-step fashion and the graduates, after limited practical experience were considered "safe" doctors.

This situation no longer prevails in any Ontario medical school. Medical educators in the United Kingdom, the United States and Canada now generally accept that all graduates of medical schools will require further specialized vocational training after graduation and, accordingly, the role of the medical school has changed.<sup>109</sup>

There have been several significant changes in Ontario medical curricula. First, the new speciality of family medicine has been created. This speciality appears designed to introduce a general practitioner who is not only better qualified technically, but also could be described as more "socially aware." Second, McMaster University has devised a program which may be completed in three academic years from a bachelor's degree by having students continue formal studies in two summers. Both this program and the old McMaster program have been modified by introducing considerable elective time which allows student experimentation. Third, didactic instruction has been confined to the earlier part of the course, so that the final 48 weeks can be used as a

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109. Ontario Council of Deans of Medicine, The Role of the Medical School in Health Science Education, Submission No. 114 to the Commission on Post-Secondary Education in Ontario (February 4, 1971).

supervised "clinical clerkship" devoted to acquisition of practical experience. The consequence of this development has been to eliminate the obligatory rotating internship and to permit a preregistration straight internship, thereby reducing specialist training required at the postgraduate level by one year.<sup>110</sup> Fourth, small group teaching, particularly in the clinical situation, has been developed. The aim is to establish a staff-to-student ratio approaching one to one.

The general effect of these changes, changes made possible by the revision of the basic principle already referred to, is to "open up" medical education. New elements of flexibility have been introduced. But there is undoubtedly a clearly definable limit to the amount of flexibility which can be introduced. For example, Dean A. L. Chute of the University of Toronto Medical School stresses that the medical profession feels the volume and complexity of essential scientific knowledge is so great that it precludes any possibility of fully training the doctor to act as a general counsellor.<sup>111</sup>

In a brief prepared by the Academic Policy Committee of Osgoode Hall Law School, and submitted to the Special Committee on Legal Education of the Law Society of Upper Canada, it was stated that the purpose of the LL.B. program "is to achieve a reasonable balance between the requirements of general

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110. Ibid., 4-5.

111. Interview between Dean Chute and P. W. Slayton and H. Rim for Applied Research Associates, July 9, 1971.

perspective and the concentration needed for specialized knowledge."<sup>112</sup> The brief notes an increasing tendency in recent years to bring the academic program into closer contact with what is termed "the reality of professional life." This closer contact is developed through the institution of clinical programs such as Trial Practice and Appellate Advocacy. The resulting emphasis "is not a mere emphasis on the practical or journeyman aspects of professional life, important as these are, but an attempt to bring out the relevance of what is being studied and to understand the law as an operating system rather than an abstract collection of concepts, theories and rules."<sup>113</sup>

More specifically, the Osgoode Hall curriculum, and to a greater or lesser extent the curricula of all Ontario law schools, has three levels of educational emphasis, with each level corresponding to an academic year. These levels are: (1) the basic courses of the first-year program, consisting almost entirely of those courses prescribed as mandatory by the Law Society; (2) primary courses; and (3) advanced courses and seminars designed to permit opportunities for elaboration by students of areas of particular interest. In the words of the brief of Osgoode Hall, development "has been very largely stimulated by the

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112. Osgoode Hall Law School, Brief to the Special Committee on Legal Education and the Law Society of Upper Canada (1971), 2.

113. Ibid., 12.

individual interests of faculty and to some extent by the suggestions and demands of students. Faculty interests have no doubt reflected to some extent individual views of what may be stimulating and otherwise beneficial for the intellectual and professional development of the student in particular areas. One major concern has been to bring more contemporary areas of significance in the legal process--including some not adequately reflected by a concentration on appellate-court decisions--under the focus of teaching and research.<sup>114</sup> The general picture appears to be again an "opening up" of education, but perhaps in the case of legal education, an "opening up" subject to more restraints than in many other fields of education.

The authors of this study in general approve of the kinds of developments noted above; accordingly, we suggest for discussion the following propositions:

XXVII. THE TREND IN PROFESSIONAL EDUCATION TOWARDS GREATER FLEXIBILITY, LIBERALITY AND RELEVANCE SHOULD BE ENCOURAGED.

XXVIII. THAT TREND SHOULD BE ENCOURAGED BY, AMONG OTHER WAYS, REDUCING THE OUTSIDE PRESSURE BROUGHT TO BEAR UPON PROFESSIONAL SCHOOLS, PARTICULARLY THAT PRESSURE EMANATING FROM PROFESSIONAL ASSOCIATIONS.

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114. Ibid., 14-15.

We wish to bring attention to some of the specific recommendations affecting curricula emanating from a number of recent studies touching on professional education.

The Committee on the Healing Arts made a number of recommendations concerning curricula which tie in well with current developments. A premise of the Committee was that the education of health workers is part of an education experience, and therefore health education programs should be fitted into the general educational system, rather than forming a distinct educational subsystem. Two of the specific recommendations of the Committee are:

That greater emphasis upon social and preventative medicine and social sciences should be included in the undergraduate medical curriculum.<sup>115</sup>

That the psychiatric content of medical education and the education of the new "general physician" be expanded so that first-line medical practitioners can play larger and more effective roles in mental health care.<sup>116</sup>

The Carnegie Commission<sup>117</sup> recommended shortening the time it takes to become a practising medical doctor from eight

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115. Government of Ontario, Committee on the Healing Arts, Recommendations, Recommendation No. 7, 15.

116. Ibid., Recommendation No. 154, 32.

117. The Carnegie Commission on Higher Education, Higher Education and the Nation's Health (1970).

years after the B.A. to six years. Ontario Medical deans have commented:

The present Ontario system does have certain positive advantages. The additional time spent as an undergraduate and the experience and maturity that can be gained from experiences in vacation periods... contributes to a broadening and consolidation of the student's information before he is thrust into the demanding and intensive life of medical practice.<sup>118</sup>

The Ormrod Committee<sup>119</sup> argued that to achieve the aims of legal education, the training process must be planned on a three-stage basis: the academic stage, the professional stage and continuing education or training. The Committee stated that the academic stage should be taken at a university, and the professional stage should consist partly of organized vocational training in an institutional setting, and partly of practical experience in a professional setting under supervision.<sup>120</sup> The Ormrod Committee made the recommendation that "a law degree... should now be recognized per se as part of the qualification for practice and not merely as an entitlement to exemption from some of the

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118. Ontario Council of Deans of Medicine, the Role of the Medical School in Health Science Education, Submission No. 114 to the Commission on Post-Secondary Education in Ontario (February 4, 1971), 108.

119. Government of the United Kingdom, Committee on Legal Education, Report (1971), 98.

120. Ibid., 42.

professional examinations."<sup>121</sup> As to what the university law training should provide, the Committee thought it entailed "teaching legal principles without which no one can begin to be a lawyer, and developing the intellectual processes which are usually referred to as 'thinking like a lawyer.'"<sup>122</sup>

The Ormrod Committee also recommended development of a vocational course designed to bridge the gap between academic study and the practical application of the law. It was the view of the Committee that these vocational courses should comprise three main elements--practical exercises, some additional law subjects, and non-law subjects of special concern to legal practitioners.<sup>123</sup> This vocational year is to be taken at university. Mr. W. J. Brown, Chairman of the British Law Society's Education and Training Committee, has criticized the suggestion that the vocational year be at university; he has stated that "our idea is that... students should do what I call TEWCs, Tactical Exercises Without Clients, a very special kind of training that it would be difficult to supervise, or, indeed, initiate in the normal university."<sup>124</sup>

The proposals of the Ormrod Committee are, in the English context, novel and complex, and require study and consideration.

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121. Ibid., 45.

122. Ibid., 43.

123. Ibid., 61-64.

124. Reported in The Daily Telegraph (London), August 9, 1971.

Nonetheless, we suggest that on balance they may represent a retrograde step. If all practising lawyers are required to take a university law degree, the law faculties in England may come under the same professional pressure which has hampered the purely intellectual efforts of Ontario and Canadian faculties. The freedom and generality of many English law faculties may be lost. Furthermore, the general tenor of the Ormrod Committee proposals is highly professional with great stress on specific vocational training, and it is likely, if the Committee's proposals are accepted by the profession, that the trend in Britain will diverge somewhat from what appears to be the trend in Ontario.

#### B. CONTROL OVER CURRICULA

We have already dealt in some detail with the influence of professional associations over professional schools. We have suggested that there exists in professional schools a "how-to-do-it" tradition which attracts almost exclusively students with the desire to be practitioners. This generates a desire to accord with the requirements laid down by professional associations. As a consequence, pressure to conform with the requirements of associations is exerted upon professional schools. In turn, this exacerbates the "how-to-do-it" trend.

We have already argued that this regrettable cycle has as its root cause the power of professional associations to license; as Carr-Saunders and Wilson have observed,

"the authorities which test dictate the amount and kind of training."<sup>125</sup> Accordingly, we have suggested for discussion the proposition that power be shifted away from professional associations to the government, perhaps to a newly-created Department for the Professions. It is our intention in this part of our study to enlarge somewhat upon our criticism of the present situation, and add to our suggestions for its rectification.

The Committee on the Healing Arts observed the resemblance of the various health occupations to guild-like organizations interested in self-preservation and self-promotion. However, the Committee noted a gradual loss of control by the professional colleges over medical education, and on balance, approved of this development. The Committee noted the desirability of promoting rapid technological change in the health fields, and of having new knowledge and approaches embodied in the education of students. It further noted a fear that professional control of education can be selfishly used as a means of protecting established occupational interests by limiting numbers and by resisting evolutionary changes which could make obsolete the skills of established members.

Recommendation 5 of the Committee on the Healing Arts was "that the control of admissions and curriculum in bona fide

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125. Carr-Saunders and Wilson, The Professions, 365.

provincially-chartered universities should reside with the institution providing that licensing requirements are met by graduates.<sup>126</sup> The Council of Deans of Medicine has endorsed this recommendation.<sup>127</sup>

There have lately been interesting developments in the relationship between the Law Society of Upper Canada and Ontario law schools. On March 21, 1969, the requirements of the Law Society pertaining to the approval of law faculties for the purpose of admission of their graduates to the Bar Admission Course, and hence to the practising profession, were amended. The most significant amendment was reduction in the number of basic courses which the Law Society requires the student to take. However, the Society still requires an approved law school to offer a long list of courses from which a student chooses his optional subjects; the freedom offered the law school by the reduction in compulsory subjects is to some extent illusory. Following these amendments, some concern was expressed by other provinces, notably Manitoba and Alberta, about the portability of the Ontario law degree. As a result of these expressions of concern the Special Committee on Uniform Standards for the Admission to the Practice of Law, a Committee of the Conference of Governing

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126. Government of Ontario, Committee on the Healing Arts, Recommendations, Recommendation No. 5.

127. Ontario Council of Deans of Medicine, The Role of the Medical School in Health Science Education, Submission No. 114 to the Commission on Post-Secondary Education in Ontario (February 4, 1971), 108.

Bodies of Law Societies, resolved in Halifax on August 31, 1970, that deans of all Canadian law faculties be asked to advise their students that at least 11 listed subjects were considered of prime importance by the Law Societies.

The pattern that is revealed is one of increasing criticism of the influence of professional associations over professional schools, accommodation to this criticism and other pressures by the association, but nonetheless, a substantial retaining of the originally criticized position. The position can be rectified only by some more drastic steps. In this connection, we have already recommended the creation of a Department for the Professions. We now wish, believing as we have noted, that the present licensing system must be changed, to draw attention to the position recently taken in Quebec by the Castonguay Commission. That Commission suggested the establishment of the State diploma, as exists in the French system:

Academic standards, programs of studies, organization of probation, requirements of control (exam, etc.) would be consigned in an Order-in-Council adopted by the government.

The contents of this Order-in-Council, determined "a first time, would be revised periodically after consultation with the professional Orders and educational institutions involved. In effect, the State would adopt uniform criteria for the whole of Quebec and diplomas awarded by universities, CEGEPs or other educational

institutions in conformity with these criteria would be recognized and countersigned as diplomas of State with equal value.

This would not prevent universities or other educational institutions from continuing to dispense the education of their choice and to award freely the diplomas and titles they wish. But when these diplomas, titles or certificates would be awarded according to criteria fixed by the State, they would be recognized as State diplomas providing access to certain professions or to certain trades.<sup>128</sup>

We believe that curricula development in professional schools, a matter vital to the public welfare, must be controlled by the only institution that has an opportunity to operate and be seen to operate solely in the public interest. Since control of curricula in the last resort is only a facet of general control of professions, that general control must be assumed by the Government of Ontario. The suggestions of the Castonguay Commission are, in this context, worthy of consideration. We suggest as a proposition for discussion:

XXIX. THE GOVERNMENT OF ONTARIO SHOULD INSTITUTE THE STATE DIPLOMA OF THE FRENCH SYSTEM, AS RECOMMENDED FOR QUEBEC BY THE CASTONGUAY COMMISSION, AS A MEANS OF ASSERTING CONTROL OVER THE PROFESSIONS AND THEREBY OVER THE CURRICULA OF PROFESSIONAL SCHOOLS.

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128. Government of Quebec, Commission of Inquiry on Health and Social Welfare, Report, The Professions and Society, Volume VII, Part 5, Tome 1 (1970), 51.

CHAPTER VI: CONTINUING AND MID-CAREER EDUCATION

One of the key issues in professional education is recognized to be continuing or mid-career education. The demands on professionals increase dramatically year by year demands that by their very nature can only be satisfactorily met by increased education, and increased education spread through the career life of the professional. Only in this way can the professional practitioner retain a grasp over an increasingly complex body of knowledge, and give himself the capability of coping with the diverse and sophisticated challenge presented by his professional life. Paul Armer, Director of Stanford University's Computation Centre, has formulated what he calls the "Paul Principle" (in response to L. J. Pieter's "Peter Principle"): "Individuals often become, over time, uneducated and, therefore, incompetent at a level at which they once performed quite adequately."<sup>129</sup>

The 1970 report on engineering education presented to the Committee of Presidents of Universities of Ontario<sup>130</sup> stated:

Since accountability is the hallmark of any profession, surely there is reason for insisting that its members

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129. Paul Armer, The Futurist (June, 1970), quoted by Leonard Warshaw and Serge Carreau, A Study of the Future of the Profession for the Province of Quebec Association of Architects (1971), 55.

130. Committee of Presidents of Universities of Ontario, Ring of Iron: A Study of Engineering Education in Ontario (1970).

maintain and enhance their ability to account to society for their actions. The dynamism of tomorrow's technology will soon render today's techniques obsolete. The half-life of the content of the present engineering curriculum is no more than five years, and so there is a compelling need for the continuing education of the engineer, together with a requalification process. In this way assurance can be given to those served by the profession that it intends to fulfill its obligation to society.<sup>131</sup>

The Report recommended that "periodic requalification (perhaps every five years) be initiated so as to require successful completion of a course of study in either control or management, or a combination of these two, together with a structured program in applied humanities."<sup>132</sup> The Association of Professional Engineers of Ontario, in its brief to the Commission<sup>133</sup> submitted before the Ring of Iron was published, while recognizing the desirability of continuing education, did not recommend any system of relicensing.

The Committee on the Healing Arts included among its recommendations the following:

That a program for ensuring competence be implemented for physicians and that periodically, perhaps every

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131. Ibid., 34.

132. Recommendation 7:2, ibid., 35.

133. The Association of Professional Engineers of the Province of Ontario, Brief to the Commission on Post-Secondary Education in Ontario, Submission No. 26 (November 25, 19

five years, every physician in Ontario be required to present to the College of Physicians and Surgeons of Ontario a certificate from a medical school in Ontario stating that he has maintained a satisfactory level of competence in the areas of medicine in which he ordinarily practises.<sup>134</sup>

That the Ontario faculties of medicine develop the standards and programs which would be required for such certification; these could include formal course work, a contribution to the profession through research or teaching, or other appropriate method.<sup>135</sup>

That the responsibility for designing and carrying out the program of continuing education and for certifying to the licensing or regulatory body of the profession that the individual practitioner has complied with the requirement devised for him or his group of practitioners, be conferred on the respective professional educational institution.<sup>136</sup>

The Ontario Council of Deans of Medicine has said of the recommendations of the Committee on the Healing Arts:

.... experience gained by the practitioner teaches him certain skills and craftsmanship which contribute greatly to the quality of his practice but which are not normally assessed by examination procedures. Many practitioners

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134. Government of Ontario, Committee on the Healing Arts, Recommendations, Recommendation No. 11, 16.

135. Ibid., Recommendation No. 12, 16.

136. Ibid., No. 332, 51-52.

move into narrow specialities in which their competence is unquestioned but is it reasonable, for instance, to expect a dermatologist of 20 years standing to have the recent graduate's practical grasp of obstetrics? In a word the means by which recertification is to be carried out is not clear.... Further study of the methods of evaluating experienced physicians and of the possibilities opened by limited licensure should be undertaken.<sup>137</sup>

It should be pointed out that a primitive system of continuing education already operates within the Ontario medical profession. From June 1968 to July 1969, \$3,372 was spent by the Department of Continuing Education at the University of Toronto for honoraria to 23 teachers who taught at seven out-of-town localities in the province. McMaster University provides regular travelling clinics. Queen's University Department of Continuing Education has experimented with the use of Medical TV in Ottawa, Kingston and Peterborough.<sup>138</sup> But the scope of these programs is very small, and they are not coupled with any kind of examination system.

The Academic Policy Committee of the Council of Osgoode Hall Law School of York University has explicitly stated

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137. Ontario Council of Deans of Medicine, The Role of the Medical School in Health Science Education, Submission No. 114 (February 4, 1971).

138. Ontario Medical Association, Report of the Committee on Education to the Council Meeting (1970).

that "we would not, at this time, recommend that taking some form of continuing legal education be made a requirement for continuing a practitioner's license to practise, but the situation should be reviewed every few years."<sup>139</sup>

In a recent Report to the Quebec Association of Architects, it was recommended that "programmes of continuing education must be initiated and architects should be afforded opportunities to maintain and improve their level of competence."<sup>140</sup> The question of tying continuing education to a system of re-licensing was not discussed in that report.

Much thinking on the question of continuing or mid-career professional education recognizes not only the need for such education, which is quite obvious, but also the necessity of tying such education to a relicensing system in order to ensure that it is efficacious. We endorse this line of thinking. We feel it essential that there be continuing education enforced by re-licensing; only in this way can the professions meet the complex and escalating challenges that we have noted they face and only in this way can the public be confident that the challenges are being met.

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139. Osgoode Hall Law School, Brief to the Special Committee on Legal Education of the Law Society of Upper Canada (1971), 23.

140. Warshaw and Carreau, A Study of the Future Of the Profession for the Province of Quebec Association of Architects, 55.

Accordingly, we put forward the following propositions:

- XXX. IT SHOULD BE OFFICIALLY RECOGNIZED THAT ALL PROFESSIONALS MUST PARTICIPATE IN A SYSTEM OF CONTINUING OR MID-CAREER EDUCATION.
- XXI. SUCH A SYSTEM OF CONTINUING OR MID-CAREER EDUCATION SHOULD BE TIED TO RELICENSING IN SUCH A WAY THAT A PROFESSIONAL LICENCE TO PRACTISE CAN ONLY BE HELD BY SOMEONE PERIODICALLY UNDERGOING AN EDUCATIONAL PROCESS AND PASSING REQUIRED EXAMINATIONS.
- XXII. THE DEPARTMENT FOR THE PROFESSIONS (OR SOME OTHER AGENCY OF THE ONTARIO GOVERNMENT) SHOULD UNDERTAKE A STUDY TO DETERMINE THE DETAILS OF A CONTINUING EDUCATION AND RELICENSING SYSTEM FOR EACH PROFESSION.

CHAPTER VII: THE PARA-PROFESSIONAL

The term "para-professional" refers to an occupation in some way derivative from and often dependent on a full professional occupation. Generally, the para-professional exhibits a degree of skill and expertise somewhat less than a full professional. Often, his training is not different in kind from that of a full professional, but merely less intensive, less theoretical, and perhaps, of lower quality. The best known example of the para-professional is the paramedic, a term used to refer to an occupation organized around the work of healing which is ultimately controlled by the physician. Friedson has noted four ways in which "physical control" over the paramedic manifests itself; (1) much of the technical knowledge learned by paramedical workers tends to be discovered or at the very least approved by physicians: (2) the tasks performed by paramedical workers tend to assist rather than replace diagnosis and treatment; (3) the work of paramedics tends to be performed at the request or order of physicians, and is generally supervised by physicians; (4) the prestige assigned to paramedical occupations by the general public tends to be less than that given to physicians.<sup>141</sup> In Friedson's opinion, lack of intellectual autonomy is the key to the

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141. Friedson, Profession of Medicine, 48-49.

para-professional pattern. As a consequence, he notes that, although there is a fairly elaborate division of labour revolving around law in the United States, it would not be appropriate to use the term para-legal for bailiffs, accountants, notaries, real estate brokers or bankers.<sup>142</sup> The correct application of the term "para-professional" in the legal context would be to someone who performs a simple version of the full lawyer's function, and performs it in some respect in a dependent manner. Friedson is correct in believing that at present in the legal profession no such occupation exists.

We perceive the para-professional occupation as being of great importance, and are strongly in favour of development of such a level of expertise in those professions which do not presently possess it. We consider that there are at least three strong reasons for development of the institution of the para-professional. First, we have already noted the desirability of "opening up" the professions. The professional function should be accessible as a career to as many members of society as possible. One way of increasing this accessibility is by creating the para-professional status, which demands less in terms of intellectual ability, education and financial resources than full professional status. In that way, a person in some

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142. Ibid., 49-50

way underprivileged would be able reasonably to contemplate some kind of professional career.

Second, it has on several occasions been suggested to us that many full professionals spend much of their time underemploying their expertise. Thus, for example, many doctors habitually spend much of their time performing essentially nursing functions, and many architects often act as interior decorators. The current belief that there is a desperate shortage of many types of professionals may therefore be erroneous; there may be enough professionals, but their training is being misapplied. This situation would be rectified by emphasizing development of a para-professional level, which would relieve full professionals of many routine and relatively unskilled duties, and allow them fully and properly to utilize the complete range of their abilities. If this were done, the cost to the public of many services--those which are presently provided by full professionals but which would fall within the competence of a para-professional--would decrease, and effective economic division of professional services would be served.

Lastly, a pyramidal professional structure incorporating the para-professional might well serve to cut across existing class barriers. This could happen in two ways. First, as we have already noted, representatives of disadvantaged communities might well find it easier to become para-professionals rather than full professionals, and

the existence of the para-professional level might therefore encourage upward social mobility. Furthermore, the fact that representatives of disadvantaged communities were operating in large numbers and effectively as para-professionals might greatly influence the chance of providing a full range of understanding professional services to those disadvantaged communities. At present, professionals tend to be members of the middle class serving the middle class; institution of a full system of para-professionals might break the middle class orientation of the professions.

Development of a para-professional system, then, will in our view promote equality of career-access, effective delivery of professional services to disadvantaged communities and effective economic division of professional services. We wish particularly to draw attention to the impetus that might be given social cohesion by development of the para-professional level. The present system may well reinforce divisive elements in our society. For example, the existing system of professional education may well perpetuate class distinctions, because professionals by virtue of their professional status are automatically members of the middle class, but only people from middle class backgrounds are likely to fill the requirements necessary to become a professional. Even more important is the possible inability of full professionals to provide for the needs of the disadvantaged. As Friedson has

observed, "The lower class system in the United States might be called parochial both because of the limitations of its culture and the limitation of its organized connection with medical institutions. Neither lower-class patients nor their lay consultants are very familiar with the range of medical services available."<sup>143</sup>

Some development along the lines we consider desirable has been taking place. In the engineering profession, for example, CAATS, Ryerson and other similar institutions are graduating a number of engineering technicians and technologists. The Association of Professional Engineers of Ontario has commented:

The engineering technologist has developed the capability of supplying the practical, technical knowledge needed by industry and no longer available from the "current" engineering graduate who has theoretical, and scientific orientation, and essentially no practical experience. Such persons are considered "over-trained" for many industrial occupations, where the technologist is able to form a natural bridge between the theoretician (engineer) in support of whom he usually works, and the trades' person who translates the technical data into hardware or software as the case may be.<sup>144</sup>

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143. Friedson, Profession of Medicine, 290

144. The Association of Professional Engineers of the Province of Ontario, Brief to the Commission on Post-Secondary Education in Ontario, Submission No. 26 (November 25, 1970).

The medical profession is more cautious about the development of a para-professional class. In its Report to the 1970 Ontario Medical Association Council Meeting, the Special Committee on Paramedical Personnel expressed some concern over the creation of any new categories of health workers. Nonetheless, the Committee recommended that the Ontario Medical Association support enthusiastically the development of appropriate paramedical personnel. Furthermore the Committee was in favour of a core curriculum as a basic training for all paramedical personnel, and suggested a form of certification which would permit free movement. Perhaps the biggest fear of the Committee was that an upgrading of present paramedical personnel would allow those personnel to slip away from the control of the physician. Said the Committee: "To us it seems that in the vast majority of clinical situations the physician must bear the eventual responsibility for the management and treatment of a patient. If this is so, he must maintain some degree of supervisory and administrative control of those persons working with and for him."<sup>145</sup>

At its Annual Meeting in 1970, the Registered Nurses Association of Ontario supported "the concept of an expanded role for the nurse in the delivery of health care services." The Federal Task Force on the Cost of Health Service in

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145. Ontario Medical Association, Report of the Special Committee on Paramedical Personnel to the Council Meeting (1970).

Canada, the Council of Health in the Province of Ontario, and the Committee on the Healing Arts have all suggested that the training of a nurse was the most desirable basis for any kind of new paramedical person that might develop. The Committee on Health Manpower to the Ontario Council of Health recommended in November 1970 that each of Ontario's five Health Science Centres should undertake the training, as a pilot project, of 20 nurses to fill this new role. McMaster and Queen's Universities are already well on the way to implementing this recommendation.

Curiously, the profession with the most sophisticated para-professional system appears to be dentistry. Dentistry has three categories of ancillary personnel: (1) dental hygienist, which requires a two-year university diploma course, and is a registerable occupation; (2) dental technician, which requires a two-year community college diploma course, and is a registerable occupation; and (3) dental assistant, which requires a one-year community college course, and is not a registerable occupation.

As perhaps one might expect, the most dynamic developments in the para-professional field have come, not from professional associations, but from young people. Particularly in the United States, for example, "law communes" have sprung up, based on the premise that the legal profession as a whole has been self-serving and unresponsive to the needs of the poor. In the People's Law Office, Carbondale, Illinois,

only three of the seven workers are members of the State Bar. The key is to adapt "practice" to the needs and mores of the community. The New York Times describes the Carbondale group:

The client is greeted by no secretaries and is not ushered into an air-conditioned office in which a natty lawyer sits beneath shelves of imperious-looking law books. Rather he parks on the front lawn, strolls past the cluttered fly-ridden porch and enters the house, where he might find his lawyer cooking dinner, washing the dishes or lounging in his underwear.

Such informality not only keeps down the overhead but also goes a long way towards putting the client at ease and "deprofessionalizing" the law. "We demystify the law."<sup>146</sup>

It should be noted that development of the para-professional class along the lines discussed will likely necessitate parallel development of a sliding scale of licensing. If it is accepted that a wider range of skills and expertise must be employed in a subtle way to satisfy diverse needs, some type of complex and correspondingly subtle sliding scale of licensing will be needed. This system of licensing should not, of course, be self-administered; it would probably fall for application by

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146. Robert Reinhold, "'Law Communes' Seeking Social Change," The New York Times, September 4, 1971, 1.

a government agency, perhaps the recommended Department for the Professions. The only situation in which this need would not arise would be if we were willing to leave control of professionals to market forces, in the way suggested by Milton Friedman.

With these considerations in mind, we suggest as propositions for discussion:

XXXXIII. EMPHASIS SHOULD BE PLACED ON DEVELOPMENT OF THE PARA-PROFESSIONAL STATUS WITHIN THE PROFESSIONS, IN ORDER PRIMARILY THAT THE PROFESSIONS ARE MORE OPEN TO, AND SERVE BETTER, THE DISADVANTAGED ELEMENTS OF THE COMMUNITY.

XXXII. A SLIDING SCALE OF LICENSING SHOULD BE DEVELOPED SO THAT RECOGNITION CAN BE GIVEN TO THE VARIETY OF PROFESSIONAL SKILLS WHICH WILL BE AVAILABLE AS A RESULT OF DEVELOPING THE PARA-PROFESSIONAL CLASS.

## CHAPTER VII: FINANCING PROFESSIONAL EDUCATION

Rising costs of post-secondary education have come to occupy much of the thinking of education planners. The issue appears particularly crucial in professional education. The public would be ill-served if one proceeded simply to reduce the length of professional training or restrict the number of places in the universities. Yet, on the other hand, the present public subsidy of professional education is immense and sometimes seems unreasonable particularly since, given the kind of trends we have already identified, very often the public does not obtain the degree of benefit and service it should. Why should the community pay huge sums so that some individuals can educate and organize themselves to benefit, first themselves, and only secondarily the community? The question we must ask ourselves is a cost-benefit ratio question: do the additional benefits of increased professional education outweigh the costs? But in asking this question, we must be clear that it is inextricably linked with the attitude of professionals and the degree to which they are prepared to furnish the service to the community which is considered by some to be the hallmark of professionalism.

### A. PLANNING-PROGRAMMING-BUDGETING AND SYSTEMS ANALYSIS

The Directorate for Scientific Affairs of the Organization for Economic Co-operation and Development emphasised the

importance of the program budgeting technique for educational planning soon after its implementation in the U.S. Department of Defense. A bibliography of relevant books, articles and papers up to 1969 has been prepared by that organization.<sup>147</sup> The authoritative Canadian publication on the subject seems to be Planning Programming Budgeting Guide published by the Treasury Board.<sup>148</sup>

For the purposes of this study, the first feature of Planning-Programming-Budgeting (PPB) to be noted is its particular method of accounting. Education expenditures are calculated around programs such as legal education, nursing education, etc., rather than with respect to function, such as staff salaries within the whole university, or capital expenditures for the multi-program institution. This method of accounting allows the decision-maker to draw comparisons between programs in various institutions rather than merely to evaluate the relative expenditures on staffs, capital equipment, maintenance, etc. Sometimes this is expressed by the statement that one makes the "output" variables available for assessment rather than the "input" variables.

It must be emphasized at this point that the Government of Ontario has shied away from exercising such close supervision of the operations of provincially supported

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147. OECD, Systems Analysis for Educational Planning: Selected Annotated Bibliography (1969).

148. Government of Canada, Treasury Board, Planning Programming Budgeting Guide (1969).

universities. The so-called "formula financing"<sup>149</sup> has been introduced to provide universities with a maximum degree of "autonomy." Very briefly, the operating formula attaches a different weight on a scale of 1 (general arts programs) to 6 (Ph.D. program) to the programs offered to Ontario students. This weight is then multiplied by the anticipated number of students in the program in a particular institution and by the dollar equivalent of unit weight (\$1,650 in 1970). The province then supports the institution to the amount arrived at in this manner.

It is apparent that the significant judgement of a program by the government occurs when the weight is decided. The weight for established programs was calculated from the average operating costs at the time formula financing was introduced. New programs are compared with existing ones and fitted into one of eight established categories.

It seems necessary to note that this method of financing encourages the universities to look at their expenditures along program lines, while allowing the government to grant the desired relatively high level of autonomy. In the

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149. Douglas T. Wright, The Financing of Post-Secondary Education: Basic Issues and Distribution of Costs (Institute of Public Administration of Canada, 1970) and B. L. Hansen, Brief of the Structure and Operations of the Operating Grants Formula for the Provincially Assisted Universities of Ontario, 1967-68 through 1969-70 (1971).

course of this study it was found, however, that the universities have not yet instituted program-oriented budgeting systems.

The second important characteristic of PPB is the so-called cost-benefit analysis. It is this aspect of PPB which makes the system more than merely a budgeting system and connects it with a planning exercise. Once the planner has clearly articulated his objectives he will then design alternative programs to achieve them. He will then calculate the costs for each alternative as well as estimate the benefits expected from each alternative if he has reason to believe that they achieve his original objectives to different degrees. If benefits are accumulated over an extended period of time--and this is certainly the case for education--standard discounting procedures have to be applied. Once the planner has satisfied himself that his analysis is reliable he will then choose the alternative which yields the lowest ratio of costs to benefits. This type of exercise has been carried out with considerable attention to detail by Systems Research Group for the Ontario post-secondary education system.<sup>150</sup>

It has been a frequent experience with PPB that the detailed data necessary for its application are lacking, at

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150. Systems Research Group, Cost and Benefit Study of Post-Secondary Education in the Province of Ontario, School Year 1968-69 (1971), prepared for the Commission on Post-Secondary Education in Ontario.

least in the early stages of implementation. Under such circumstances the technique becomes a useful tool which points out areas where data are particularly inadequate for a more "rational" allocation of resources. The present study is no exception in this respect. A much more massive effort would be required to fill in the gaps in the present data base. On the other hand, the reason for inadequate data for this study may be related to a widely held conviction that it is by no means desirable to have detailed knowledge of the financial workings of the education system. The view is frequently expressed that such information could only de-emphasize other, possibly more important, aspects of education such as autonomy, experimentation and innovation.

#### B. RECENT TRENDS

We shall now attempt to apply the concepts briefly reviewed in Section A of this chapter to professional education in Ontario.

We note first that Ontario universities have no readily accessible data on the cost of their educational programs. Isolated studies, such as for engineering education,<sup>151</sup> and the study by Systems Research Group<sup>152</sup> have been carried out. However, they are for single years, and therefore no time series can be extracted.

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151. Committee of Presidents of Universities of Ontario, Ring of Iron: A Study of Engineering Education in Ontario (1970).

152. Systems Research Group, Cost and Benefit Study.

There are three pertinent observations that we can make at this stage. First, there has been no systematic upward revision of the formula weight of professional education with respect to other types of education. The exceptions are, however, the weights for medicine, dentistry and veterinary medicine which for 1969-70 were changed from 3 to 5 and the weights for medical and dental interns from 1.5 to 2.5. But these changes do not necessarily reflect an increase in cost; to an extent they replace special grants in previous years for support of these programs.

Second, an increase in the cost of education of chartered accountants and teachers has occurred due to the recent introduction of higher degree requirements for licensing.

Third, the B.I.U. (Basic Income Unit, i.e. the dollar equivalent of unit weight in the "formula") has been valued upward at approximately 5 per cent annually over the past four years. These increases are designed to compensate for the effect of inflation and to make university salaries more competitive with other North American institutions. They are consequently applicable to all programs.

As we remarked in the previous section, PPB instructs the analyst to look beyond the strict cost of a program to its cost-benefit ratio. It is this ratio rather than the strict cost which informs the judgement of the decision-maker. Tables 40 and 41 of the Systems Research Group

study<sup>153</sup> give a summary of the results of that study. We note that, although the cost for medicine and dentistry rank first and second in total cost (Table 17,) they have the second and first lowest cost-benefit ratios respectively. From a purely financial point of view it would then appear reasonable to increase the supply of manpower in these (and several other) disciplines.<sup>154</sup>

#### C. COST TRANSFERS

From an educational point of view the doctor's internship and residency is undoubtedly part of his education. On the other hand, his hospital service is a contribution to the health delivery system, and in an extended sense so is the rest of his training. The questions to be resolved can be stated thus: is it more sensible to make all medical training the responsibility of the Department of Health, or should teaching hospitals be transferred from the Hospital Services Commission to the Department of Colleges and Universities, or should the present shared responsibility continue unchanged? Similar questions can be asked for the other health sciences, law, social work, teaching and several other professions.

The most significant effect of such financial reorganization

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153. Ibid.

154. We advise the reader, however, to proceed to a close study of the SRG report, ibid. in order to appreciate the limitations of the above statement. Cf. also M. Blaug "Approaches to Educational Planning," Economic Journal, 77 (1967), 263.

would seem to be a redrawing of the lines of responsibility. Decision-makers with a different "educational" outlook would come to exert a larger influence upon the training of new members of the profession. Before we argue the virtue of such a development we remark upon two recent events: in 1970-71, teachers' colleges were moved from the Department of Education to the Department of University Affairs (now the Department of Colleges and Universities); and it has been decided to offer optometry through the colleges of applied arts and technology. It is evident that the universities and colleges continue to enjoy high respect and prestige. Furthermore, clustering of disciplines in the universities is in keeping with demands for greater communication between disciplines.

The opposite move, i.e. out of universities and into delivery departments, may be advocated on the grounds that the primary loyalty and obligation of the practitioner should be to the client. Hence, a closer association with persons who have working responsibility would exert a beneficial influence on the training of practitioners. It would also counteract elitist tendencies of professional education which, under the guise of the pursuit of excellence, can come to distort the spectrum of skills needed by the community; witness, for example, the shortage of general practitioners relative to medical specialists.

It is quite clear that the long-range interests of our

society would be poorly served by not paying continued attention to the highest quality of specialized research. On the other hand, little would be gained if the benefits of such advanced knowledge were not made accessible to the general public. It should also be kept in mind that advanced research into public health and preventive medicine has significance for everyone, while organ transplants will always be restricted to the wealthy and fortunate few. Even if one admits the generally held view that the results of research are difficult to predict, one should not abdicate the responsibility for directing limited resources into the most socially beneficial channels.

By way of summary, we then observe that there are strong forces which tend to concentrate all education in the colleges and universities. We are fearful that this concentration may be to the detriment of a service outlook of professions. We feel that this dilemma could be overcome by increasing the representation of both lay members of the public and practitioners on the governing councils and committees of professional faculties.

#### D. COST AND PROFESSIONAL ORGANIZATIONS

As we have shown in previous sections of this study, there are indications that it is in the self-interest of professional organizations to raise the admission requirements to the profession, a step which both restricts the supply of manpower in the profession and raises the calibre of the

new members of the profession. As long as there is a balance of these forces across the whole spectrum of the professions, such a tendency can only be regarded as a natural and healthy desire for excellence.

However, since the professional organizations do not bear educational costs, one has to ask where are the countervailing forces. These are the student, who pays mostly in terms of foregone earnings, and society, who pays the larger portion of education costs. Since the student has little power to influence the situation, the responsibility devolves on the government at least to monitor these developments and keep the public informed.

It therefore becomes necessary to define what would in fact be a desirable state of affairs. We accept without question that both higher ability and larger individual sacrifice have to be rewarded. Nevertheless, there have to be restraints on the rewards accruing from these factors. Government would be remiss in its duty if it did not try to maximize the returns of the monies the public entrusted to it. This could be done by collecting data which would allow reliable calculations of cost-benefit ratios for separate professional schools across the province. The government could then encourage those schools which have best been able to resist the general upward pressure on costs. The government should also curtail the powers of professional organizations to the extent that educational

institutions become better able to innovate the experiment in matters of curriculum. Such experiments should be monitored by following the success of graduates in their work experience. Meanwhile, it should be understood that such financial considerations should only form part of governmental decision-making. We summarize the arguments of this chapter with the propositions:

- XXXVI. EXTENSIVE DATA ON PROGRAM COSTS AND THE COMPETITIVE ABILITY OF GRADUATES OF PROFESSIONAL PROGRAMS SHOULD BE CONTINUOUSLY MONITORED.
- XXXVII. THE RESULTS OF SUCH ANALYSIS SHOULD THEN BE COMMUNICATED THROUGHOUT THE SYSTEM TO ENCOURAGE EMULATION OF PARTICULARLY SUCCESSFUL PROGRAMS.

CHAPTER IX: CONCLUDING REMARKS

This study pretends only to raise issues for debate; it cannot and should not be considered as an exhaustive study of the complex, profound, and ever-changing subject of professional education. We have attempted only to indicate areas for discussion and further consideration. Perhaps this study shows only one thing, and that is that much more and wider-ranging study is urgently required before we can come close to a solution to the pressing problems of professional education.

The key issue in professional education, in our opinion, is a lack of correlation between the need of the community for a certain kind of professional service (and thus for a certain system of professional education), and the system of education and product of that system the community presently possess. The professions are presently so structured that professionals possess a monopoly of a certain power and that power is not being systematically exercised in the interests of the whole community. Rather, the power given through knowledge and State permission to use that knowledge is being exercised often in a self-seeking, protectionist, illiberal and sometimes anti-intellectual fashion.

Professional associations, representing a monopoly and using their power in the way described above, have, for a

variety of reasons identified elsewhere in this study, exercised a huge influence over professional education, an influence which has been generally retrogressive. New professional practitioners tend to be formed in the old molds and, in a rapidly changing society, the disparity between needs and services increases accordingly. The need to bring professional practices in line with the needs and aspirations of the community at large is an urgent need.

The general system of professional education is an inflexible system which, despite certain encouraging tendencies we have noted, has increasing difficulty in keeping pace with a society evolving in almost all respects at a furious pace. The machinery is, in our view, too archaic simply to be oiled; it must be rebuilt. We have identified a number of components of this fundamental restructuring. Re-apportionment of the time division between university and apprenticeship training may be necessary. New admission criteria are desirable. Curricula must be liberalized. New entry and exit points to professional education should be created. A system of mid-career education tied to relicensing is necessary. Through the development of the para-professional class, greater opportunities for both professional education and professional services must be provided to disadvantaged groups.

It must not be forgotten or overlooked that the services provided by professionals are vital to the well-being of

society. The problems of professional education--the education that determines what services will be provided and in what way--are therefore problems crucial to the community's well-being. We must be prepared for a fundamental examination and if necessary fundamental restructuring of the professional system. Mere tinkering is not enough.

CHAPTER X: SUMMARY OF PROPOSITIONS

- I. Further study of the professions and professional education should ideally be undertaken by the provincial Department for the Professions suggested in Proposition X of this study.
- II. In the interim, or failing creation of a Department for the Professions, such further study should be undertaken by the Department of Education or the Department of Colleges and Universities, or both.
- III. Consideration should be given to asking the federal government to undertake, jointly with the provinces, a national study of the professions and professional education.
- IV. The basic premise of all professional education should be explicitly recognized as being that the first duty of every professional is to act at all times in the best interests of the community.
- V. It should be authoritatively stated that a guiding principle of all professional education is the need to give the student a liberal awareness of the social implications of his professional acts.
- VI. It should be authoritatively stated that a guiding principle of professional education is the need to foster inter-professional communication and action.

- VII. Governmental attention should be directed towards ways of implementing the principles contained in Propositions IV, V and VI in a manner consistent with academic freedom.
- VIII. Governmental action, through legislation or otherwise, which encourages or recognizes formation of new "professions" should recognize the impetus to intellectual rigidity and fragmentation given by such encouragement or recognition.
- IX. The Government of Ontario should undertake a study of the workings and influence of those professional associations with regulatory powers with a view to investigating alternative means of regulation.
- X. Consideration should be given to establishment of a Department for the Professions charged with the regulation presently undertaken by professional associations, and with all other matters pertaining to the professions.
- XI. Consideration should be given to the removal of all regulations governing the professions with a view to protecting the consumer by allowing normal market forces to operate.
- XII. When considering requests for new "professional" programs, universities and government should be aware of social as well as intellectual motives for such requests.

- XIII. The following general working definition of a profession should be adopted: A "profession" is a vocation, based on an intellectual discipline, requiring long specialized training, and practised in the interests of the community.
- XIV. A detailed study of the social roles and responsibilities of professionals should be undertaken with a view to encouraging professional schools to consider these factors when formulating admissions policies.
- XV. No professional association should have the power formally and directly to establish admission standards for professional schools.
- XVI. A detailed study should be undertaken of the possibility of reapportioning time divided in professional education between formal and apprenticeship stages of education, with a view to decreasing the pressure on university professional schools to provide a highly technical education, and thereby making admission to professional schools more attractive to those who do not wish to practise.
- XVII. Consideration should be given to removing all educational requirements for the taking of professional licensing examinations in order to promote equality of access to the professions.

- XVIII. Generally university professional schools should not discourage admission of those who do not intend to be professional practitioners.
- XIX. A uniform and explicit policy towards the professional education of women should be formulated by the Government of Ontario.
- XX. The Ontario policy towards the professional education of women should recognize both theoretically and by taking practical steps the right of women to express themselves through professional activity.
- XXI. The proposed Department for the Professions (or another agency of the Ontario Government) should examine in detail the question of minority admission programs in professional schools.
- XXII. The feasibility of establishing a range of professional programs in the CAATs should be investigated by that agency.
- XXIII. Specialized curricula for minority groups in professional schools should be examined, in conjunction with a wider set of licensing options.
- XXIV. The relevance and desirability of rigid pre-professional post-secondary education requirements should be the subject of further study.

- XXV. The desirability of creating new entry and exit points into professional education should be recognized.
- XXVI. A detailed study should be undertaken of the way in which the present system of education can be restructured to provide such entry and exit points.
- XXVII. The trend in professional education towards greater flexibility, liberality and relevance should be encouraged.
- XXVIII. That trend should be encouraged by, among other ways, reducing the outside pressure brought to bear upon professional schools, particularly that pressure emanating from professional associations.
- XXIX. The Government of Ontario should institute the state diploma of the French system, as recommended for Quebec by the Castonguay Commission, as a means of asserting control over the professions and thereby over the curricula of professional schools.
- XXX. It should be officially recognized that all professionals must participate in a system of continuing or mid-career education.
- XXXI. Such a system of continuing or mid-career education should be tied to relicensing in such a way that a

professional licence to practise can only be held by someone periodically undergoing an educational process and passing required examinations.

- XXXII. The Department for the Professions (or some other agency of the Ontario Government) should undertake a study to determine the details of a continuing education and relicensing system for each profession.
- XXXIII. Emphasis should be placed on development of the para-professional status within the professions, in order primarily that the professions are more open to, and serve better, the disadvantaged elements of the community.
- XXXIV. A sliding scale of licensing should be developed so that recognition can be given to the variety of professional skills which will be available as a result of developing the para-professional class.
- XXXV. Extensive data on program costs and the competitive ability of graduates of professional programs should be continuously monitored.
- XXXVI. The results of such analysis should then be communicated throughout the system to encourage emulation of particularly successful programs.

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#### E. INTERVIEWS

Interviews were held with:

Dr. D. M. Aitken, Vice-Registrar, Ontario College of Physicians and Surgeons.

J. S. Bancroft, Director, Finance Branch, Department of University Affairs.

Dean A. L. Chute and Associate Dean J. W. Steiner, Faculty of Medicine, University of Toronto.

Horace Krever, Professor, Faculty of Law, University of Western Ontario.

Dean G. E. LeDain, Osgoode Hall Law School, York University.

Ross Munro, former education correspondent, Globe & Mail.

Walter Pitman, M.P.P. for Peterborough, and N.D.P. education critic.

Michael Phillips, President of the Students Council of the Faculty of Nursing, University of Toronto.

Dr Glenn Sawyer, General Secretary, the Ontario Medical Association.

E. Tannis, Officer, Architectural Services Branch, Department of University Affairs.

M. J. Trebilcock, Associate Professor and Chairman  
of the Curriculum Committee, Faculty of Law,  
McGill University.

Douglas T. Wright, Chairman, Commission on Post-Secondary  
Education in Ontario; Chairman, Committee  
on University Affairs.

F. CORRESPONDENCE

(1) General Information and Opinions

Applied Research Associates by way of correspondence  
solicited general information and opinions from sixty-eight  
academics, administrators, practising professionals,  
government officials, politicians and publicists. Information  
and opinions were solicited about the professions and about  
certification, two subjects being studied by Applied Research  
Associates for the Commission on Post-Secondary Education  
in Ontario. Replies to ARA's inquiry are on file in the  
offices of ARA, and have been treated as confidential. What  
follows is (1) the text of the letter and attached  
document constituting the inquiry, (2) a list of those who  
replied in a substantive way and (3) reproductions of three  
replies of particular interest. Permission to print  
these letters has been obtained from the writers.

(a) The letter and document

Dear

We are writing to you in connection with studies which we  
are carrying out on behalf of the Commission on Post-  
Secondary Education in Ontario.

As you may be aware, the Commission was appointed in 1969 to advise the Minister of Education and the Minister of University Affairs on policies necessary to ensure the further effective development of post-secondary education in Ontario to 1990.

The studies with which we are concerned relate to Certification and to the Professions. Because of your knowledge and involvement in these areas, we feel that any contribution which you would like to make would be of considerable value to the Commission. We would appreciate therefore any information which you can provide on any or all of the issues which we have outlined in the enclosed document.

This document is designed to indicate the range of issues with which we are concerned: if you would prefer to make general remarks rather than address yourself to our specific questions, we would ask you to do so.

Your reply will be treated as strictly confidential. In the event of our wishing to attribute any particular view to you in our Report, we will first seek your permission.

Very truly yours,

Encl.

1. PRE-PROFESSIONAL POST-SECONDARY EDUCATION

What should be the purpose of pre-professional education?

2. ADMISSION POLICIES AND PRACTICES

- a. Should non-academic factors be considered in Admission decisions? If yes, what sort of factors?
- b. Are there too many or not enough members of your and/or the other various professions? Do you think the profession should actively solicit applicants from minority groups? Are members of minority groups at an undue disadvantage in applying for admission?

3. CURRICULUM

- a. Who has the decisive influence in the development of the curriculum?
- b. Do curricula keep pace with evolving community needs?

4. CERTIFICATION

- a. What has been the development of criteria for certification and what are the means of ensuring that they are reviewed and up-dated?
- b. What were the last significant changes in the certification process; when were they made and for what reason?
- c. What are the provisions for continuing professional education in your profession and how do these programs relate to the certification process? Should, for example, certification be granted once and remain valid for life?
- d. To what extent does certification ensure a basic level of professional competence?
- e. What is the likelihood of the certification requirements excluding individuals from the professions for reasons other than lack of competence?

## 5. APPRENTICESHIP EDUCATION

What is the relationship between apprenticeship education and institutional education? What kind of adjustment, if any, in this relationship could profitably be made?

## 6. PARA-PROFESSIONALS

Is there a need for some intermediate level of professionalism, i.e. auxiliary or assistant personnel - the para-professional? What is the present nature of the need? What form should education of the para-professional take?

## 7. PROFESSIONAL SCHOOLS AND PROFESSIONAL ASSOCIATIONS

What is the nature of the present relationship between the professional schools and the professional association? Is this relationship satisfactory; if not, what changes are required?

\* \* \* \* \*

### (b) Those replying

Jeanne Arnold, Registrar, Ontario Association of Architects.

Nigel Bellchamber, M.B.A., Program Manager, University of Western Ontario School of Public Administration.

Dean D. Bocking, Faculty of Medicine, the University of Western Ontario.

Harold B. Dean, Deputy Secretary General, Ontario Secondary School Teachers' Federation.

Dr. B. P. DesRoches, Director of Education, Ontario College of Pharmacy.

Harold G. Dillon, Assistant Executive Director, Ontario Hospital Association.

Dean John R. Evans, Faculty of Medicine, McMaster University.

L. Blake Fewster, Fellow, Canadian Institute of Actuaries.

Dean Thomas G. Feeney, Faculty of Law (Common Law), University of Ottawa.

J. E. Foote, Podiatrist, Peterborough, Ontario.

Florence L. Philpott, Executive Director, Canadian Association of Social Workers.

Kenneth F. Pownell, Registrar-Secretary-Treasurer,  
The Royal College of Dental Surgeons of Ontario.

James A. Rendall, Associate Professor, Faculty of Law,  
University of Western Ontario.

L. M. Richardson, Executive Assistant, Ontario Secondary  
School Teachers' Federation.

J. W. Samuels, Associate Professor, Faculty of Law, University of  
Western Ontario.

Dean W. S. Tarnopolsky, Faculty of Law, University of  
Windsor.

Dr. Elizabeth Upton, Past President, Canadian Dietetic  
Association.

(c) Replies of particular interest

(see immediately following pages)....

## McMASTER UNIVERSITY

HAMILTON, ONTARIO, CANADA

## FACULTY OF MEDICINE

August 11, 1971

Mr. Harald Riml,  
Applied Research Associates,  
4324 Sherbrooke St. West,  
Suite 48,  
Montreal, P.Q.

Dear Mr. Riml:

In reply to your enquiry of July 29, 1971, I am submitting the following information:

1. The purpose of pre-professional education should be to provide a satisfactory base for the subsequent professional studies without limiting the choice of career to that field exclusively. In medicine the two year pre-medical programme has had the disadvantage of producing a rather stereotyped university experience for those who enter a long professional programme and furthermore it was a blind end programme from which it was difficult to transfer without significant academic penalty. At McMaster University we have tried to avoid a specific pre-medical programme. Indeed, we abolished the pre-medical programme when we introduced the medical studies in 1969.
- 2.a. We do consider non-academic factors in admissions. In addition to the MCAT ratings in the four different categories, we try to obtain information about the individual from personal references, an essay written by the individual himself, and in a portion of cases by personal interview. This is being subjected to a review procedure to determine its prediction value in relation to success in course. In half the admissions, factors other than academic weighed most heavily in the choice of individual but the individuals considered eligible were all those with a "B" or second class honours standing in their most recent year of university study before application. The opportunity to carry out this sort of study is made possible by the very large number of applicants in relation to places available.
- 2.b. There has recently been a report by a Special Committee of the Ontario Council of Health and I believe that it is the best source of information to answer this question. I believe there is a need for more physicians but only if something can be done about the distribution of those physicians by site of practice and by the nature of their medical practice. I do believe that the profession should actively solicit applicants from minority groups or from regions where there is a shortage of health personnel in the hope

Mr. Harald Riml

August 11, 1971

that these individuals will tend to serve the groups or regions from which they are drawn with a higher degree of probability than medical students at large. I suspect that minority groups are at an advantage in applying for admission, but the problem is that very few Indians or Eskimos reach the level of academic preparation which would permit them to be an applicant. The remedy to this problem probably lies at earlier stages of the educational system and also in raising the aspirations of these individuals to consider these careers.

3. The decisive influence in the development of curriculum rests with the curriculum committees of the Faculty and Senate of the University. There is a subsidiary influence by the College of Physicians and Surgeons of Ontario (not the Ontario Medical Association), which has an Education Committee and as well by the various examining bodies, particularly the Medical Council of Canada and the Royal College of Physicians and Surgeons. Accreditation teams representing the Association of Canadian and American Medical Schools and the American Medical Association also influence the pattern of development of curriculum.

Curriculum does not keep pace with evolving community needs and I am sure that there are several reasons. The first is the difficulty in gaining consensus in the definition of community needs and second is the lag time in order to implement change in any system. Once change has been agreed upon, one must also recognize that with a long programme such as Medicine, it takes a number of years before the change is manifest. Finally, there must be a suitable environment to receive the change and this requires conditioning of hospitals, health agencies and the practising profession.

4. Certification - Criteria for certification of individuals from medical educational programmes is carried out by the Medical Council of Canada by examination after graduation and in the fields of postgraduate training by the Royal College of Physicians and Surgeons of Canada for specialists and by the College of Family Physicians for family doctors. In addition, a number of the students write the examinations of the National Board of Medical Examiners in the United States. Each one of these agencies has been active in attempting to develop more effective means of evaluation of competence and there is evidence of updating of the certification process of the Medical Council of Canada in 1970, of the Royal College in 1971, and in the repeated changes in policy of the Ontario College of Physicians and Surgeons from 1965 to 1970.

Continuing education for the medical profession is sponsored by the individual faculties of medicine, the various teaching hospitals, the local academies of medicine, the provincial and national medical associations and the Royal College of Physicians and Surgeons and the College of Family Physicians. My personal view is that certification should not be permanent and that there should be a regular review linked to the continuing education process and, if possible, an assessment of performance characteristics.

Mr. Harald Riml

August 11, 1971

Since there is no limited licensure, the basic certification of a physician is not likely to ensure professional competence in all aspects of the specialty, but it does indicate a level of basic knowledge on which that competence can be built. At least one year of postgraduate training is required for all physicians after graduation from medical school before licensure and the overwhelming majority of physicians take two or more years of postgraduate training in order to prepare themselves for family medicine or one of the specialties. Certification in these areas probably does represent in a high degree an assessment of a reasonable level of professional competence. It should be pointed out, however, that this assurance is only in relation to the effectiveness of an examination procedure in measuring something like professional competence. I think that it is lack of skills with the certifying examination process rather than any other type of discrimination which tends to exclude certain individuals from special levels in the professions. The examination is a crude testing instrument for the purpose.

5. An important feature of medical education is the experience which is taken in the clinical setting where the individual actually learns under supervision how to deliver health care by practising the art. This apprenticeship component is carried out primarily in teaching hospitals affiliated with the university and more recently in community health care centres where office practice and primary care are carried out. The direction of adjustment at the present time, which I think would be desirable, would be first, to have a larger proportion of this clinical teaching done in community centres as opposed to hospitals and, secondly, to try and establish this type of education for all the members of the health profession in the same setting rather than in separate settings.
6. In order to use the highly trained manpower more effectively and to substitute in areas of shortage of manpower, I believe that it would be desirable to have an intermediate level of professional relating to the physician. In view of the current surplus of nursing personnel in most major metropolitan centres, we have undertaken to provide additional training to nurses in order to extend their role as associates to physicians in community health practice which is the area of greatest need. This nurse practitioner programme is the first of its type in this province, is a co-operative programme, and enrolment in the current year includes 30 nurses. We are also carrying out a number of demonstration models for the evaluation to determine the effectiveness of these individuals from the standpoint of professional services, economy, and acceptability to the public and the professions concerned.
7. There is no formal relationship between the professional schools and the professional associations. There are frequent areas of controversy which are the occasion for ad hoc meetings and there is a good deal of tension created within the immediate communities of almost every medical school since the professional school tends to act as an agent of change and as a source of professional competition. The relationship is less than

Mr. Harald Riml

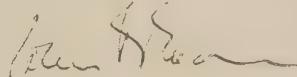
August 11, 1971

satisfactory and the importance of maintaining credibility between medical schools and the practising profession in any region should not be underestimated, since the rate of introduction of any changes in methods of practice is significantly constrained by the willingness of the body of the profession at large to accept these changes. The preparation of family physicians, for example, which began with a specific pilot programme in 1968 would have had very little impact if the products had only been applicable to university-sponsored units. Fortunately the profession has become very interested after initial resistance to the concept and many of the changes associated with the concept of the recent model family physician have had a broad impact on patterns of practice and relationships with other health personnel.

In your letter to Mr. Paling, the Controller at McMaster University, you asked about the costs of the medical programme. Since this is a new programme, accepting its first class in 1969, there is a steady escalation of the operating costs and I believe that the purpose of your question cannot be satisfactorily met until the programme is in a stable phase of enrolment -- about 1975. We have not achieved full information necessary for programme budgeting to determine the proportion of the expenditures which relate to research, service and education, and these data might not be very meaningful in our current early phase of development.

Many of the matters which you have raised in your enquiry have been dealt with elsewhere in great detail and referring specifically to the Province of Ontario. I am sure that you are already familiar with the volumes of the Committee on the Healing Arts; the section dealing with Medicine has chapters on most of the questions which you have raised. The Ontario Council of Deans of Medicine also forwarded a submission to the Post-Secondary Education Commission earlier this year giving the background for many of the questions which you have asked. The Ontario Council of Health has published reports within the last two years on Education of the Health Disciplines, Health Manpower and will be publishing shortly a report on arrangements for future education in Medicine and the Health Sciences, which again looks at the manpower requirements in Medicine in Ontario. Finally, my personal views on several of these questions have been recorded in chapter 7 of the book "Towards 2000", The Future of Post-Secondary Education in Ontario, pages 81-94.

Yours sincerely,



John R. Evans,  
Dean

JRE/kr

MCMASTER UNIVERSITY

HAMILTON, ONTARIO, CANADA

FACULTY OF MEDICINE

October 13, 1971

Division of Health Sciences  
1400 Main Street West  
Hamilton 16, Ontario.

Mr. P. Slayton,  
Applied Research Associates,  
4324 Sherbrooke St. W.,  
Suite 48,  
Montreal, Quebec.

Dear Mr. Slayton:

You have my permission to include the letter to Harald Riml dated August 11, 1971 as an appendix to the report which you will be submitting to the Commission on Post-Secondary Education in Ontario.

On re-reading the report, I note one possible ambiguity. In paragraph 2 (a) line 9 should read: "...eligible were all those with not less than a "B" or second class honours standing."

I would also draw your attention to a recent report from the Association of Canadian Medical Colleges that indicates that although the applicants selected for Medical School represent a preponderance of the upper social strata, this is not surprising and can hardly be construed as a discrimination since these strata predominate in the applicant pool. The same organization has demonstrated an increasing proportion of female students gaining entry into the medical programs (20% in the most recent year) and a diminishing proportion of foreign applicants. Detailed information on these studies of Canadian Medical Schools and their admission practices are available from Dr. Robert Grainger, Association of Canadian Medical Colleges, Ottawa.

Yours sincerely,

  
John R. Evans  
Dean

JRE:jv



## UNIVERSITY OF WINDSOR

WINDSOR 11, ONTARIO

DEAN OF LAW

Mr. Harald Riml  
 Applied Research Associates  
 4324 Sherbrooke Street West  
 Montreal, Quebec

Dear Mr. Riml: -

I will reply to your document 110 in the same point form used by you.

1. Since a professional education must necessarily be somewhat specialized and technical, and therefore rather narrow, the purpose of pre-professional education must be to supply some of the broadening and intellectual development of the professional person.

I do not think it should be a preparation for professional education. Rather, the object should be to increase the number of "civilized" men in higher decision-making positions. Considering the rapid deterioration of reading and writing abilities, I believe that emphasis on oral and written communication should be an important part of pre-legal education.

2. I think non-academic factors should be considered in admission decisions, but I am referring here only to such factors as those you list in the second part of the question. I think the profession should actively solicit applicants from minority groups, and that minority groups are at a disadvantage in applying for admission, in that they would usually have commenced their university careers with a number of handicaps, and strict reliance upon their academic records, or I.Q. tests, are not a true reflection of their potential. On the other hand, I do not think that the standards applied to members of such groups while at

... continued

Mr. Riml: -

the professional school should be any lower in any way than those applied to others. However, it is, I think, the responsibility of the professional school to provide special additional tutoring to enable these individuals to compete on an equal basis. As far as law schools are concerned, I find that the greatest handicap faced by these people is their inadequate training in the use of the English language. With special remedial classes and with special assistance these people can usually make it.

There is a great deal of talk in the legal profession about a surplus of lawyers. Personally, I am not in agreement with this. For one thing, there are still many communities in remote areas which are not adequately served. For another thing, a very large number of our profession are getting very handsome salaries, and this is an indication that the profession is not yet overcrowded. A third point is that there are not enough law graduates in Canada who go into administrative fields either in government or private enterprise.

3. Although clearly the profession itself, and in the past few years the students, have participated in the development of the curriculum, the decisive influence has been that of the faculty. I think that the curricula in the various law schools have kept pace with evolving community needs. The current generation of law teachers in Canada is very conscious of the need to study law in the context of the needs of society. A law teacher who does not relate law to contemporary problems is a poor teacher.

4. Certification in the legal profession is a combination of a university degree with a period of practical training with a period of practical tutoring. The last major change in this process was about thirteen years ago. Currently, the whole field of legal education is under review. I am not in a position to forecast the results, but I certainly hope that the present combination of theoretical training in law schools, practical training in a law office, and supervised practical tutoring continues. It may be that the total process is too long, and that it should be shortened, but it is much better than the former system whereby the profession itself controlled legal education quite completely,

... continued

Mr. Riml: -

or in the alternative the American method where the law schools provide all education and the various legal societies merely conduct a qualifying examination.

I believe that certification does ensure a basic level of professional competence, and that therefore one could justify a periodic re-examination process. However, I do not think that there is any possibility of this ever happening.

5. I have answered this in the previous paragraph.

6. There is much in a law office which is routine. It would seem to me that specially trained clerks, or secretaries, trained on the job, will always be required by any efficient law office. On the other hand, I do not think that this should be done to the exclusion of articling students. Although a professional lawyer should not himself do any of the routine mechanical jobs, I think it is useful for him to have the opportunity to do most of these during an articling period. I would not, therefore, like to see the para-professional ranks expanded to the total exclusion or the restriction of articling students.

7. The relationship between law schools and the Law Society in Ontario is one wherein the Law Society meets periodically with the law schools to establish a set of criteria which the profession finds acceptable by way of a general outline of the requirements of legal education. I think this will always be necessary as there is a tendency for academics to emphasize purely research and study, sometime at the cost of more practical education. On the other hand, the professional association tends too much the other way. The best solution, resulting from a certain healthy tension between the two groups is the present one, whereby the professional schools are completely autonomous within a set of guidelines agreed to by both bodies. One defect has now been informally solved, and that is that until recently there were no members of the law teaching profession on the main governing body of the professional association. During the last year, some three law teachers have been elected to this governing council as benchers, and the six law schools are presently represented on the new Law Society Council. I think that this development will be beneficial both to the profession and to the schools.

Very truly yours,  
W. S. Tarnopolsky  
*W. S. Tarnopolsky*

11 August, 1971.  
(Dictated by Dean Tarnopolsky  
and signed in his absence.)



## The University of Western Ontario, London 72, Canada

Faculty of Law

August 23, 1971,

Mr. Harald Riml,  
Applied Research Associates,  
4324 Sherbrooke St. W.,  
Suite 48,  
Montreal, Quebec.

Dear Mr. Riml:

I am enclosing my comments in response to the questionnaire which accompanied your letter of July 29.

You will see that there are some matters on which I do not feel qualified to say very much. You will also note that I have directed my comments almost exclusively to the legal profession: I am diffident enough about the value of my opinions in respect of my own profession and much more hesitant yet about venturing views in respect of other professions.

Please do not hesitate to contact me in respect of any of the matters which I may have referred to or to which I may have failed to refer.

Yours very truly,

James A. Rendall  
Associate Professor

JAR/sb  
Encl.

### 1) Pre-Professional Post-Secondary Education

I should like to suggest that the answer to your question about the purpose of pre-professional education falls into two parts. In the first place, pre-professional education has that importance which is common to all forms of education and which is unrelated, or peripherally related, to the matter of professional education. In this respect, it is at least as important for members of the legal profession (and I shall throughout my comments confine myself primarily to a consideration of this profession) to have those liberalizing and civilizing experiences and influences which are thought classically to inhere in this kind of education as it is for any others among our citizenry to have this kind of exposure.

The second part of my answer and the part in respect of which I feel that I can deal somewhat more expansively, involves a consideration of the function of pre-law education as a specific preparation for the study of law. Quite apart from its civilizing function to which I have referred above, it seems always to have been thought necessary to justify a liberal arts education on intellectual grounds. The justification chosen has been that this form of education teaches students, really for the first time in their educational experience, to think rather than simply to develop and utilize their memories and their verbal skills.

Classically then, educators of the legal profession have preferred to deal with students who have already developed the ability to think rather than simply to memorize and to speak and write and read with reasonable facility. We have also hoped that the undergraduate experience would develop in them good intellectual work habits - most particularly diligence and the initiative to set their own study goals and to pursue inquiries beyond that which is specifically prescribed by an instructor or a text book. We hope that they will further have become facile in reading large volumes of material and extracting what is most significant. If they have also managed to develop skills of analysis and synthesis and the ability to reason inductively, we regard that as a bonus. Finally, it is to be hoped that the liberalizing influences already referred to may introduce a breadth of outlook that will allow a student to submerge most of his own biases and approach a problem with the ability to recognize a wide variety of competing values and to choose wisely among them for the purpose of creating a structure of priorities which involves a set of rules with a high degree of reliability and predictability but yet retains a proper degree of flexibility.

My own rather harsh, perhaps unfair, judgment is that undergraduate education has been letting us down very seriously in many of these respects. In the matter of communication, most of the students read well enough; their ability to express themselves orally is adequate in terms of sheer communication although they certainly could not be described as graceful or felicitous; their writing ability is shockingly bad.

In the matter of the liberalizing influence, I believe that our students are improving. I think they are more ready and more able than formerly to recognize and deal with a wide range of values. However, I believe they are becoming less able and less willing to engage in really hard analysis. Indeed, I would say that probably the major deficiency of the present undergraduate education is that it fails utterly to challenge students to think and to develop those work habits of diligence and initiative which we are seeking.

Although there is presently a good deal of opinion in favor of enlarging the pre-law educational requirements, my own view is that undergraduate work is becoming less important for law students and it is becoming much harder to justify requiring it. As education at the secondary level, and even at the primary level, shifts its focus from developing those few skills that center around language and arithmetic and abandons the pedagogical technique of memory drills and presentation and recall of facts, I believe that undergraduate education loses its claim to any unique function in the educational process. Indeed, many of our students who come to us from a large undergraduate general arts program have been seriously damaged. Many of them have lost the habit of, and appetite for, the kind of classroom dialogue with which they were quite familiar in high school.

We frequently say of prospective law students that the sort of maturity which should normally accompany increased age is of itself very important. I have joined in the assumption that a young man or a young woman is more ready for the study of law at age twenty-one or twenty-two than he or she would be at age eighteen or nineteen. I am not at all confident that this assumption is sound; in any event, it appears to me that imposing an undergraduate education is an unnecessary way of guaranteeing this kind of maturity. I believe that the sort of habits and intellectual discipline and experience which can be developed by a few years of work experience may in many cases be at least the equal of the advantages sought by requiring an undergraduate education.

In brief, it appears to me that post-secondary education is valuable to us chiefly as an aid in the admissions process. Pre-law grades presently represent the most significant and the most reliable criterion for selecting applicants who will likely be successful at law school.

2) Admission Policies and Practices

(a) Certain factors which are normally thought to be non-academic in nature may yet be of assistance in judging an applicant's academic ability. It very frequently happens that a person claims to be under represented by his grades and makes a plausible explanation for his unrepresentative performance by referring the Admissions Committee to such factors as personal illness or unsettling events within his family or the extra-curricular activities which preempted an unreasonable amount of his time. These factors always have to be judged very carefully, but there is no doubt that the Admissions Committee sometimes finds such explanations persuasive.

It is quite possible to argue that non-academic factors should have an importance in the admissions decision at quite a different level. It would certainly be arguable that the Admissions Committee should try to conjecture a profile of desirable personality traits in prospective lawyers and take into consideration any factors that might indicate integrity, compassion, leadership, dedication to public service and other such desirable qualities.

In the main, I think that our Admissions Committee has tried to avoid such assessments which are incredibly difficult to make. Worse still, any statement of the desirable characteristics would be highly personal and an attempt to use such a system of assessments would involve a very undesirable degree of subjectivity.

(b) Minority group membership may be one of the very few non-academic factors which should be considered by an Admissions Committee. I think that I can say with confidence that members of minority groups have never faced any "disadvantage", let alone an "undue disadvantage" in gaining admission to this law school if that phrase is intended to refer to bias in the admissions process. That is, I am confident that our Admissions Committee has admitted applicants according to its judgment of their academic ability and without reference to any other factors. It is important to note that we have had particular regard for female applicants and for applicants who are older and who have families and who lack the two years of undergraduate work which the Law Society has been prescribing as an absolute condition for admission to law school. In these latter cases, we have often thought it an unwarranted hardship to require the man to do undergraduate work and we have set up procedures for admitting these people as "mature applicants". However, it is not our intention to favor these persons over the more usual sort of applicant; we have looked to their earlier records of academic achievement and to those facets of their work experience which would allow us to estimate their chances of being successful at law school and to compare them to other applicants in this respect. In particular, we have been using the Law School Admissions Test for all of our applicants.

In respect of female applicants, our committee has not reduced its standard to accomodate them. However, recognizing a shortage of women in the legal profession, and recognizing the difficulties which face a girl who finds herself outnumbered in the law school by a ratio of 30 or 40 to 1, we have taken special pains to encourage those girls whom we do admit to attend our school. That is, having admitted them in competition with a great many men, we have been writing special letters and making other efforts to make ourselves attractive to as many girls as possible.

Although members of minority racial groups are free of any special "disadvantage" in the admissions process that I have above described, it is only realistic to recognize that they may have substantial difficulties in competing for available law school seats by reason of their very limited opportunity to compile the pre-law academic requirement.

While I can strongly endorse a move to attract into law the members of various minority groups, I find it very hard to say that the need to have these groups represented justifies reducing the admissions standard in their favor. American law schools have been grappling with this problem for several years, and several of the national schools have thought the need so urgent that they were prepared to favor members of the minority groups by applying a less rigorous admissions standard to them. Inevitably, they have found that this led them into a dilemma once the students were in the school. Despite their best efforts at individual tutoring to assist these students who came with sub-standard academic credentials, they found it necessary either to apply a less rigorous standard of achievement to these students or, in the alternative, to permit the chips to fall where they might with the result that a higher failure rate was experienced among the minority group members and led them to the cynical observation that the schools had merely been engaged in a token gesture all along.

We all recognize that there is not a perfect correlation between pre-law indicators of ability and success at law school. Accordingly we do not assume that people who are admitted without demonstrating the level of achievement typical of other applicants will necessarily fail. However, the correlation between pre-law indicators and success at law school is sufficiently reliable that we can predict with confidence a higher failure rate among applicants who fail to satisfy our admission standard. In the result, I am satisfied that, desirable as it might be, admission to Canadian law schools of minority group members who could not satisfy our normal admissions requirements would lead us into the same dilemma as the American schools have faced. It may be that the urgency of getting these groups represented in the profession is great enough that we should face the dilemma. I think my own preference would be to mount an effort to upgrade their pre-law academic experience so that they could come into the law schools on their own merits.

On the general question of numbers in the profession, I find it quite impossible to say whether there are too many or too few. I expect that everyone knows of the concern which has developed in the last several years that the legal profession may be becoming over populated.

Certainly, it is true that the number of LL.B. graduates has very greatly increased in a very short time. Some of our graduates are now having substantial difficulty to obtain jobs; we tend to look at this as an indicator, though by no means a conclusive one, that lawyers may be in over supply. It does seem clear that the legal profession in Ontario is presently suffering strain in its capacity to absorb all of the LL.B. graduates in the fashion which we have tended to think of as natural. It may be that there is a great deal of room for our graduates in business and in government and that these opportunities have not been properly exploited in the past.

Turning for a moment to the profession of medicine, I would certainly be unable to say that there are too many doctors. My own experience, and I understand that many other people had the same experience, is that in many cases it is difficult to find a doctor who is willing to take on new patients. This seems to me to be clear evidence of a shortage of doctors.

### 3) Curriculum

(a) In the main, our curriculum is developed by our Faculty Council which acts in response to the recommendations of the Curriculum Committee. The Law Society of Upper Canada exerts some influence by way of its prescription of certain subject matters which must be taught as a condition of accreditation. In the past the Law Society stipulated quite a lengthy list of prescribed subject matters which must be included in the curriculum. At the present time, the stipulated list is much shorter, though there are other subjects which we are required to offer although we are not obliged to compel students to take them.

(b) Most law schools have in recent years conducted a very thorough review of their curricula. I would have to say that it remains an open question whether we are keeping pace with community needs. I can report that at this school the Curriculum Committee is girding itself for another intensive study of the curriculum and that, at the same time, a newly designated Long Range Planning Committee is calling in question every one of our assumptions - including the assumption that the community needs lawyers and that there is some distinct educational function which a law school can serve.

### 4) Certification

(a) The criteria for certification are developed by the Law Society of Upper Canada. The Law Society has had its own Legal Education Committee deliberating for about a year and a half on all aspects of legal education, including the question of certification. This is eminently a question which could best be answered by persons who have been sitting on that Committee. In particular, the chairman of the committee is B.J. MacKinnon, c/o Messrs, MacKinnon & McTaggart, Barristers & Solicitors, 365 Bay Street, Toronto 105, Ontario.

(b) The last significant changes in the certification process occurred about 1958. At that time, the old four year professional training program at Osgoode Hall was abandoned and all of the Ontario law schools were standardized in terms of giving a three year LL.B. program which was then followed by an articling period of twelve months and a bar admission course of six months. I expect that there were many reasons for the change; one of them undoubtedly was the pressure exerted by the university law schools to have themselves placed on an equal footing with the Osgoode Hall Law School which, at that time, was operated by the Law Society.

(c) At present it seems to be the case in each of the Canadian provinces that the responsibility for continuing professional education is assumed by the Provincial Bar Association. At this time, continuing legal education programs are operated in most of the provinces; some of them are quite active and others are relatively inactive. None of them are related to the certification process; they tend uniformly to be "refresher" courses or to be "up-dating" courses in the sense of dealing with new developments in various areas of the law.

I expect that all of the Ontario law schools are presently deliberating their responsibility in the matter of continuing legal education. Certainly, our Long Range Planning Committee is treating this as a very important item on its agenda.

As to the question of lifetime certification, I find it difficult to respond without considerable thought and analysis beyond anything which I have done to this stage. If periodic re-certification were going to be required, it would be important to consider carefully the relative functions of the professional association and the university schools. Our experience in Ontario seems to me not to justify great optimism in respect of a certification process carried out by the professional association itself. The Bar Admission Course presently run by The Law Society is, I believe, a very valuable course. However, I think it very inapt as a test of professional capabilities, and I do not think that the Law Society relies very heavily on it beyond using it to eliminate a very few of the most obviously incompetent. I think that, in the main, the Law Society has been accepting the LL.B. degree as raising a strong inference of capability.

On the other hand, I am not at all sure that the university law schools would want to have responsibility for re-certifying members of the legal profession; nor am I confident that the lawyers would willingly assign the responsibility to the law schools.

(d) At present I believe that the level of competence among young lawyers is relatively high. I think that it has increased very dramatically over the last twenty or twenty-five years. My inclination is to attribute the improvement to the involvement of the university law schools and to say that the standards of competence are really fixed according to the standards of the professional law teachers rather than by the professional body in its certification process. However, my opinion is subject to the deficiencies inherent in the bias which results from my position as a professional law teacher.

(e) It seems to me that the certification requirements would not exclude persons from the profession for reasons other than lack of competence except insofar as they stipulate that admission to law school is conditional on two years of undergraduate university work. It appears to me that there may be some very capable older people around who would like to go to law school and who might prove quite competent, but who do not have any university work and who are reluctant to invest two additional years that may prove to be of very little value to them except as meeting the condition laid down by the Law Society.

This school has been admitting some of these people as "mature applicants", being careful to notify them that the Law Society may refuse to recognize their LL.B. degrees for the purpose of certification. We have also been exerting such influence as we can to persuade the Law Society to remove its prescriptions relative to admission to law school.

#### 5) Apprenticeship Education

This is a very large question and one on which I do not feel qualified at present to venture opinions. I should like to refer you to the legal education sub-section of the Ontario section of the Canadian Bar Association, a committee which is presently chaired by Mr. C.C. Johnston, c/o Strathy, Archibald, Seagram & Cole, 110 Yonge Street, Toronto, Ontario, and by Professor Warren Grover of the Osgoode Hall Law School.

Perhaps I might also refer you to Professor D.M. McRae of this faculty who has been serving with that committee and who has invested a substantial amount of time and thought on the question which you ask.

#### 6) Para-Professionals

I think there is need for these sorts of people, and I think that many members of the practicing profession recognize the need. Some law firms are using law clerks in much the same manner that English law firms have done for a very long time. Indeed, some English law clerks were imported by Toronto firms.

Large law firms have also been hiring title searchers and, of course, employing many other persons - ranging all the way from commissioners through private investigators and office managers. At present, it seems likely that the training of the para-professionals may fall to the community colleges by default.

#### 7) Professional Schools and Professional Associations

The present relationship is unsatisfactory by reason of the reciprocal jealousies and criticisms which proceed from the different types of intellectual commitment which characterize the two groups.

To a considerable extent, the differences in outlook are so inherent that they must be accepted as inevitable - and perhaps not entirely as a bad thing. However, I think that a good deal can be done to at least improve the cordiality between the two groups; we have made some halting attempts at this school to involve the local members of the profession in planning for the school in a way in which they have not previously been involved.

(2) Level and Structure of the Cost of Professional Education

Applied Research Associates by way of correspondence solicited information on the level and structure of the cost of professional education from ten senior financial officers from nine Ontario universities. Replies to ARA's inquiry are on file in the offices of ARA, and have been treated as confidential. What follows is (1) the text of the letters asking for information, and (2) a list of those who replied in a substantive manner.

(a) The letter

Dear

Applied Research Associates has been contracted to carry out a study on Professional Education for the Commission on Post-Secondary Education in Ontario. The Commission has the task of arriving at policy recommendations for post-secondary education to the year 1990.

One of the questions with which the Commission is concerned is the level and structure of the cost of professional education.

Specifically the Commission would like to know:

1. What has been the trend of costs for professional education (medicine, law, engineering, architecture) over the last five years?
2. How much of additional costs can be attributed to training and research respectively?
3. Would there be advantages in financing professional education through departments other than the Department of University Affairs? In other words, would there be savings by financing medical education through the Department of Health; legal education through the Department of Justice, etc?

4. Do professional associations have an influence on the level and structure of cost of professional education? If so, where and how?

We would be very grateful if you could make available to us the relevant data for the University of..... To analyse these questions we would also find it useful to have an understanding of the major steps in the budgeting process for professional schools as they are practised at your institution.

Questions No. 3 and 4 especially, and to some extent question 2, involve a large amount of human judgement. We would appreciate it if you nevertheless could communicate your views on these questions. We would treat your responses with strict confidentiality and ask for your specific permission if we should want to include your answers in our Report to the Commission.

Very truly yours,

(b) Those replying

A. D. Dunton, President, Carleton University.

S. S. Farrell, Operating Budget Analyst, University of Waterloo.

Leigh B. Livock, Budget Officer, University of Guelph.

Lawrence G. Macpherson, Vice Principal (Finance),  
Queen's University.

(3) Earning Power of Professionals

Applied Research Associates by way of correspondence solicited information on the relative earning power of recent graduates of professional schools from eight administrators in eight major Ontario professional associations. Replies to ARA's inquiry are on file in the offices of ARA, and have been treated as confidential. What follows is (1) the text of the letter asking for information and (2) a list of those who replied in a substantive manner.

(a) The letter

Dear

Applied Research Associates has been contracted to carry out a study on Professional Education for the Commission on Post-Secondary Education in Ontario. The Commission has the task of arriving at policy recommendations for post-secondary education to the year 1990.

To carry out our study we need some information regarding the relative earning power of recent graduates in your profession. We would like to know how successfully recent graduates manage to compete within the whole profession.

In case you collect such information, we would be grateful if you could make it available to us. Should you treat such information confidentially, it would be sufficient if you could give us the average annual income of each of the last five most recently graduated classes in percentage terms of average annual income of the profession.

We thank you for your cooperation in this matter.

Very truly yours,

(b) Those replying

W. W. Hastings, Communications Group, the Association of Professional Engineers of the Province of Ontario.

L. M. Richardson, Executive Assistant, Ontario Secondary School Teachers' Federation.

(4) Faculty of Medicine, McMaster University

Applied Research Associates made particular inquiries of the Faculty of Medicine, McMaster University, in order to study its recently revised program. Time and money limitations prevented a detailed inquiry, but we are grateful to Dr. W. J. Walsh and Dr. J. D. Kraemer, of the Faculty, for their help and interest.

APPENDIX B - STUDY TEAM

Applied Research Associates of Montreal prepared this study for the Commission on Post-Secondary Education in Ontario. For Applied Research Associates, Professor Philip Slayton, of the Faculty of Law, McGill University, directed the study and wrote all the report except Chapter VIII. Mr Harald Riml, Partner of Applied Research Associates, aided considerably in the conceptual and research development of the study and wrote Chapter VIII. Mr Stephen Gibson acted as Research Assistant.









